

Greensboro LDO Project

Module 1B

Greensboro Council/CAT Review Draft

January 18, 2006

Notes to Reviewers

A number of editors notes, comments, and questions are included throughout this draft document. These may be indicated in a few different ways.

Brackets [sample] are used when a comment or question is embedded within a paragraph or text.

Editor's notes are used for comments or questions relating to a nearby paragraph or text. These are for editing purposes only and will not appear in the final version of the new LDO. The notes will be highlighted and enclosed in top and bottom brackets, as shown in the sample editor's note below:

Editor's notes: This is a sample of how the editor's notes will appear in the module.

Some cross references have not been filled-in yet and are identified by a place-holder- "Section XX." These references will be established later in the drafting process.

Numbering (Heading, Section, Paragraph, and etcetera) does not necessarily correlate to an item's location in the original UDO due to the vagaries of the editing software being used.

Table of Contents

Article 1. Introductory Provisions	1-1
MODULE 1A	1-1
30-1-1 Title	1-1
30-1-2 Effective Date.....	1-1
30-1-3 Purpose	1-1
30-1-4 Relationship to Comprehensive Plan.....	1-2
30-1-5 Jurisdiction	1-2
30-1-6 Authority.....	1-3
30-1-7 General Rules of Interpretation.....	1-3
30-1-8 Conflicting Provisions	1-5
30-1-9 Official Zoning Map	1-5
30-1-10 Annexation	1-7
30-1-11 Transitional Provisions.....	1-8
30-1-12 Severability	1-10
Article 2. Nonconformities	2-1
30-2-1 General	2-1
30-2-2 Nonconforming Lot of Record	2-2
30-2-3 Nonconforming Use	2-3
30-2-4 Nonconforming Structures.....	2-5
30-2-5 Nonconforming Signs and Sign Permits	2-6
Article 3. Administrative Bodies.....	3-1
30-3-1 General	3-1
30-3-2 City Council.....	3-3
30-3-3 Planning Board	3-4
30-3-4 Technical Review Committee.....	3-6
30-3-5 Zoning Commission.....	3-8
30-3-6 Board of Adjustment.....	3-9
30-3-7 Historic Preservation Commission	3-11
30-3-8 Guilford County Joint Historic Properties Commission	3-13
30-3-9 Advisory Commission on Trees (ACT)	3-18
30-3-10 Redevelopment Commission	3-20
30-3-11 Planning Director	3-20
30-3-12 Other Departments	3-21
30-3-13 Summary of Review Authority	3-24
Article 4. Review and Approval Procedures	4-1
MODULE 1B	4-1
30-4-1 Common Review Procedures.....	4-1
30-4-2 Ordinance Interpretation	4-6
30-4-3 Comprehensive Plan Amendments	4-7
30-4-4 Ordinance Text Amendments	4-8
30-4-5 Zoning Map Amendments- All Zoning Districts	4-10
30-4-6 Zoning Map Amendments–Planned Unit Development Districts	4-15
30-4-7 Establishment of Original Zoning.....	4-18
30-4-8 Special Use Permits	4-18
30-4-9 Modifications	4-21
30-4-10 Local Historic Districts and Landmarks Matters.....	4-28

30-4-11	Variance.....	4-45
30-4-12	Special Exceptions.....	4-48
30-4-13	Site Plan and Plot Plan	4-50
30-4-14	Street and Utility Construction	4-55
30-4-15	Subdivision	4-57
30-4-16	Street and Alley Closings	4-64
30-4-17	Site Specific Development Plans.....	4-64
30-4-18	Permits and Certificates	4-68
30-4-19	Appeal of Zoning Administrative Decision	4-75
30-4-20	Appeal of Tree Preservation Administrative Decision	4-77
Article 5.	Enforcement	5-1
30-5-1	Violations	5-1
30-5-2	Inspections and Investigations.....	5-1
30-5-3	Enforcement Procedure.....	5-3
30-5-4	Remedies.....	5-4
30-5-5	Assessment of Civil Penalties	5-5
Article 6.	Zoning Districts	6-1
MODULE 2.....		6-1
30-6-1	Establishment of Districts	6-1
30-6-2	Residential District Intent Statements	6-2
30-6-3	Mixed Use District Intent Statements.....	6-4
30-6-4	Public and Institutional District Intent Statement	6-5
30-6-5	Commercial District Intent Statements	6-5
30-6-6	Industrial District Intent Statements	6-6
30-6-7	Planned Development Districts Intent Statements	6-6
30-6-8	Conditional Use Zoning Districts.....	6-8
30-6-9	Overlay District Intent Statements	6-9
Article 7.	District Standards	7-1
30-7-1	Measurements and Computation.....	7-1
30-7-2	Housing Types.....	7-8
30-7-3	Residential Zoning Districts.....	7-16
30-7-4	Mixed Use Zoning Districts	7-34
30-7-5	Commercial and Public and Institutional Districts	7-37
30-7-6	Industrial Zoning Districts.....	7-39
30-7-7	Overlay Zoning Districts.....	7-40
Article 8.	District Use Requirements.....	8-1
30-8-1	Permitted Use Table.....	8-1
30-8-2	Prohibited Uses	8-9
30-8-3	Use Categories	8-9
30-8-4	Additional Development Standards.....	8-22
30-8-5	Accessory Buildings and Uses.....	8-70
30-8-6	Temporary Use Standards.....	8-78
Article 9.	Planned Unit Development.....	9-1
30-9-1	Planned Unit Development Districts	9-1
Article 10.	General Development Standards	10-1
30-10-1	Mixed Use Developments	10-1

Article 11. Off Street Parking and Loading.....	11-1
30-11-1 Vehicle Stacking Areas.....	11-1
Article 12. Definitions.....	12-1

Current UDO Table of Contents

~~Article I. Purpose and Authority~~

- ~~30-1-1 Short Title~~
- ~~30-1-2 Repeals and Enactment~~
- ~~30-1-3 Purpose~~
- ~~30-1-4 Jurisdiction~~
- ~~30-1-5 Authority~~
- ~~30-1-6 Abrogation~~
- ~~30-1-7 Interpretation of Ordinance~~
- ~~30-1-8 Rules of Interpretation and Construction~~
- ~~30-1-9 Compliance~~
- ~~30-1-10 Relation to the Comprehensive Plan~~
- ~~30-1-11 Establishment of Official Zoning Map~~
- ~~30-1-12 Interpretation of District Boundaries~~
- ~~30-1-13 Severability~~

~~Article II. Definitions~~

- ~~30-2-1 Definitions Index~~
- ~~30-2-2 Definitions~~

~~Article III. Permits and Procedures~~

- ~~30-3-1 Permit Required~~
- ~~30-3-2 Permit Exemptions~~
- ~~30-3-3 Permits~~
- ~~30-3-4 Permit Issuance~~
- ~~30-3-5 Permit Expiration~~
- ~~30-3-6 Certificates~~
- ~~30-3-7 Permit/Certificate Compliance and Phasing~~
- ~~30-3-8 Dedication or Reservation of Right-of-Way~~
- ~~30-3-9 Sureties or Improvement Guarantees~~
- ~~30-3-10 Oversized Improvements~~
- ~~30-3-11 Site Plan and Plot Plan Procedures~~
- ~~30-3-12 Zoning Map Amendments~~
- ~~30-3-13 Conditional Use Districts and Conditional Use Permits~~
- ~~30-3-14 Special Use Permits~~
- ~~30-3-15 Text Amendments~~
- ~~30-3-16 Establishment of Original Zoning~~
- ~~30-3-17 Zoning Changes in Historic Districts~~
- ~~30-3-18 Vested Rights~~
- ~~30-3-19 Fees~~
- ~~30-3-20 Transportation Impact Study (TIS)~~

~~Article IV. Zoning~~

- ~~30-4-1 Districts Established and Described~~
- ~~30-4-2 Traditional Neighborhood District Requirements~~
- ~~30-4-3 Planned Unit Development District Requirements~~
- ~~30-4-4 Overlay District Requirements~~
- ~~30-4-5 District Use Requirements~~
- ~~30-4-6 Dimensional Requirements~~
- ~~30-4-7 Supplementary Dimensional Requirements~~
- ~~30-4-8 Accessory Building and Structure Requirements~~
- ~~30-4-9 Fences~~
- ~~30-4-10 Zone Lot Requirements~~
- ~~30-4-11 Nonconforming Situations~~
- ~~30-4-12 Lot Size Reduction Prohibitions~~
- ~~30-4-13 Special Purpose Lots~~
- ~~30-4-14 Street Right-of-Way~~

~~Article V. Zoning: Other Standards~~

- ~~30-5-1 Development Standards for All Uses~~
- ~~30-5-2 Sidewalks~~
- ~~30-5-3 Development Standards for Individual Uses~~
- ~~30-5-4 Off-Street Parking, Stacking, and Loading Areas~~
- ~~30-5-5 Landscaping and Tree Preservation Requirements~~
- ~~30-5-6 Sign Regulations~~

~~Article VI. Subdivisions: Procedures and Standards~~

- ~~30-6-1 Exclusion Determination~~
- ~~30-6-2 Coordination with Other Procedures~~
- ~~30-6-3 Approval Required~~
- ~~30-6-4 Pre-Application Conference~~
- ~~30-6-5 Submission of Plans~~
- ~~30-6-6 Sketch Plan~~
- ~~30-6-7 Preliminary Plat~~
- ~~30-6-8 Street and Utility Construction~~
- ~~30-6-9 Permanent Runoff Control Structures and Soil Erosion and Sedimentation Control Devices~~
- ~~30-6-10 Owners' Associations~~
- ~~30-6-11 Final Plat~~
- ~~30-6-12 Recordation of Final Plats~~
- ~~30-6-13 Subdivision Standards~~

~~Article VII. Environmental Regulations~~

- ~~30-7-1 Water Supply Watershed Districts~~
- ~~30-7-2 General Watershed Areas (GWA)~~
- ~~30-7-3 Submission Requirements~~
- ~~30-7-4 Definitions, Explanations, and Standards~~

- ~~30-7-5 Watershed Critical Areas (WCA)~~
- ~~30-7-6 Soil Erosion and Sedimentation Control~~
- ~~30-7-7 Flood Damage Prevention~~

~~Article VIII. Enforcement~~

- ~~30-8-1 Violations~~
- ~~30-8-2 Inspections and Investigations~~
- ~~30-8-3 Enforcement Procedure~~
- ~~30-8-4 Remedies~~
- ~~30-8-5 Civil Penalties Assessments and Procedures~~
- ~~30-8-6 Civil Penalties Soil Erosion and Sedimentation Control~~
- ~~30-8-7 Criminal Penalty Soil Erosion and Sedimentation Control~~
- ~~30-8-8 Injunctive Relief Soil Erosion and Sedimentation Control~~
- ~~30-8-9 Other Powers and Actions~~
- ~~30-8-10 Remedies Cumulative and Continuous~~

~~Article IX. Administration~~

- ~~30-9-1 Administrative Procedures~~
- ~~30-9-2 Planning Board~~
- ~~30-9-3 Zoning Commission~~
- ~~30-9-4 Technical Review Committee~~
- ~~30-9-5 Historic Preservation Commission~~
- ~~30-9-6 Board of Adjustment~~
- ~~30-9-7 Redevelopment Commission~~
- ~~30-9-8 Guilford County Joint Historic Properties Commission~~
- ~~30-9-9 Multijurisdictional Development Ordinance Committee~~
- ~~30-9-10 Enforcement Officer~~
- ~~30-9-11 Modifications~~
- ~~30-9-12 Appeals~~
- ~~30-9-13 Advisory Commission on Trees (ACT)~~

Article 4. Review and Approval Procedures

MODULE 1B

30-4-1	Common Review Procedures.....	4-1
30-4-2	Ordinance Interpretation	4-6
30-4-3	Comprehensive Plan Amendments	4-7
30-4-4	Ordinance Text Amendments	4-8
30-4-5	Zoning Map Amendments- All Zoning Districts	4-10
30-4-6	Zoning Map Amendments–Planned Unit Development Districts	4-15
30-4-7	Establishment of Original Zoning.....	4-18
30-4-8	Special Use Permits	4-18
30-4-9	Modifications	4-21
30-4-10	Local Historic Districts and Landmarks Matters.....	4-28
30-4-11	Variance.....	4-45
30-4-12	Special Exceptions.....	4-48
30-4-13	Site Plan and Plot Plan	4-50
30-4-14	Street and Utility Construction	4-55
30-4-15	Subdivision	4-57
30-4-16	Street and Alley Closings	4-64
30-4-17	Site Specific Development Plans.....	4-64
30-4-18	Permits and Certificates	4-68
30-4-19	Appeal of Zoning Administrative Decision	4-75
30-4-20	Appeal of Tree Preservation Administrative Decision	4-77

30-4-1 Common Review Procedures

30-4-1.1 Pre-Application Consultation

- (A) Before submitting an application for any development approval, it is recommended that an applicant schedule a pre-application consultation with the Planning Director to discuss the procedures, standards and regulations required for development approval in accordance with this Ordinance.
- (B) The Planning Director may establish guidelines for conducting such consultations which may include alternatives to face-to-face meetings.
- (C) A pre-application consultation with the Planning Director is mandatory prior to the following development reviews:
- 1) Zoning Map Amendment (Section 30-4-5, and 30-4-6)
 - 2) Comprehensive Plan Amendment (Section 30-4-3)
 - 3) Special Use Permit (Section 30-4-8)
- (D) A pre-application consultation with the Housing and Community Development Director is mandatory before local Historic District Designation (Section 30-4-10.1).
- (E) A pre-application consultation with the Department of Transportation Director is mandatory prior to preparation of a Transportation Impact Study (Section XX).

30-4-1.2 Neighborhood Meeting

- (A) Before submitting an application for certain procedures (such as Comprehensive Plan Amendment, Zoning Map Amendment, or Special Use Permit), the applicant is encouraged to hold a neighborhood meeting. The purpose of the neighborhood meeting is to inform the neighborhood of the nature of the proposed land use and development features, and solicit and respond to comments.
- (B) A neighborhood meeting is mandatory for applications which require a Transportation Impact Study (Section XX.)
- (C) The Planning Director may establish guidelines on proper notification of surrounding property owners and submittal of written summaries for neighborhood meetings.

Editor's note: The Neighborhood Meeting (or "meet and confer") is an idea that was proposed during the Stakeholder meeting process.

30-4-1.3 Application Requirements

- (A) **Forms**
Applications required under this Ordinance must be submitted on forms, in such numbers, and according to deadlines established by the appropriate department.
- (B) **Fees**
- 1) All applications and associated fees must be filed with the appropriate department.
 - 2) Filing fees may be established and modified from time to time to defray the actual cost of processing the application.
- (C) **Applications Sufficient for Processing**
Applications must be substantially complete in order to be reviewed.

30-4-1.4 Notice

- (A) **Summary of Notice Required**
- 1) **For Boards and Commissions**
Notice is required for applications for development review or approval as shown in the table below:

Table 4-1 Notice Requirements for Boards and Commissions

PROCEDURE	Published	Mailed	Posted
Comprehensive Plan Amendment	✓ ¹	✓ ²	
Zoning Map Amendment	✓	✓	✓
Special Use Permit	✓	✓	✓
Variance and Special Exception	✓	✓	
Local Historic District or Landmark Designation	✓	✓	✓ ³
Certificate of Appropriateness		✓	✓
Site Specific Development Plan		✓	
Appeal of Zoning Administrative Decision	✓	✓ ⁴	
Appeal of Tree Preservation Determination and Penalty		✓	
Note: ¹ Published notice required when in association with a Zoning Map Amendment. ² Mailed notice required only for Generalized Future Land Use and Growth Strategy Maps. ³ Posted notice required for Local Historic District Designation. ⁴ Mailed notice required when appropriate.			

2) For City Council

Notice is required for applications for development approval as shown in the table below:

Table 4-2 Notice Requirements for City Council

PROCEDURE	Published	Mailed	Posted
Comprehensive Plan Amendment	✓ ¹	✓ ²	
Zoning Map Amendment	✓	✓	
Ordinance Text Amendment	✓		
Special Use Permit	✓	✓	
Local Historic District or Landmark Designation	✓	✓	
Site Specific Development Plan		✓	
Note: ¹ Published notice required when in association with a Zoning Map Amendment. ² Mailed notice required only for Generalized Future Land Use and Growth Strategy Maps.			

(B) Notification Requirements

1) Published Notice

a) Zoning Map Amendments and Ordinance Text Amendments

All zoning map amendments heard by the Zoning Commission and City Council, and all Ordinance Text Amendments heard by City Council require the placement of an advertisement in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date of the public hearing.

b) Board of Adjustment

An advertisement must be placed in a local newspaper of general circulation once, not less than ten days before the date of the public hearing.

2) Mailed Notice

a) Notice must be mailed to the owners of all properties abutting the property which is under consideration.

- b) A reasonable attempt must be made to notify other property owners based on the county tax listing within the applicable notification distance from the property under consideration by first class mail as specified in the table below:

Table 4-3 Mailed Notice Requirements

PROCEDURE	Notification Distance (ft)
Comprehensive Plan Amendment	600
Zoning Map Amendment	600
Variance and Special Exception	150
Special Use Permit	600
Certificate of Appropriateness	100
Site Specific Development Plan	Subject property and all adjacent properties ¹
Street/Alley Closings	All adjacent properties
Street Name Change	All adjacent properties
Appeal of Tree Preservation Determination and Penalty	All Adjacent properties ¹
Notes:	
¹ Adjacent properties includes properties directly across the street from the subject property	

- c) All zoning map amendment notices must be mailed at least ten but not more than 25 days prior the date of the public hearing. All other notices must be mailed prior to the public hearing date.
- d) The person or persons mailing zoning map amendment notices must certify to the City Council that proper notice has been given. Such certification is deemed conclusive in the absence of fraud.
- e) Mailed notice under this section is not required if a zoning map amendment directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Planning Director elects to use the published notice requirements provision in NCGS Section 160A-384.

3) Posted Notice (Sign)

The Planning Director must post a sign as specified in Section 30-4-1.4(A) advertising the public hearing prior to the hearing date for the action being considered. The sign must be posted on the property or at a point visible from a public street.

(C) Constructive Notice

The appropriate department director may determine if minor defects in notice impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.

30-4-1.5 Hearing

A public hearing is required for development review as shown in the table below:

Table 4-4 Hearing Requirements

PROCEDURE	Advisory Commission on Trees	Board of Adjustment	Historic Preservation Commission	Zoning Commission	Planning Board	City Council
Comprehensive Plan Amendment					✓ ¹	✓
Ordinance Text Amendment					✓ ²	✓
Zoning Map Amendment			✓ ³	✓		✓ ⁴
Special Use Permit			✓ ³	✓		✓ ⁴
Local Historic District Designation			✓	✓	✓	✓
Designation of Landmark Sign			✓			
Certificate of Appropriateness			✓			
Demolition by Neglect			✓ ³			
Variance and Special Exception		✓ ⁵	✓ ³			
Street and Alley Closing			✓ ³		✓	✓
Site Specific Development Plan			✓ ³		✓	✓ ⁵
Appeal of Zoning Administrative Decision		✓ ⁵				
Appeal of Tree Preservation Administrative Decision	✓					
Notes: ¹ Where Planning Board is involved ² Except where bypassed by City Council (see Section 30-4-4) ³ Where Historic Preservation Commission is involved ⁴ City Council public hearing if required. ⁵ Requires a quasi-judicial hearing						

30-4-1.6 Appeals to Boards and Commissions

(A) General

Unless otherwise provided, appeals of decisions, actions, orders, or interpretations of this Ordinance must be:

- 1) in writing;
- 2) filed within 15 days of the final decision being appealed; and
- 3) filed with ~~the Secretary of the Board or Commission~~ appropriate department assisting the public body to which the appeal is taken.

(B) Nature of Hearing

~~in the nature of de novo review.~~ Unless otherwise provided, the appeal hearing will be held in the same manner as other public hearings by that body.

30-4-1.7 Judicial Appeals from Board of Adjustment

(A) Except as otherwise provided, an appeal from a decision of the ~~City Council or the~~ Board of Adjustment is by certiorari to the Guilford County Superior Court.

(B) Any petition for review by the Superior Court ~~shall~~ must be filed with the Clerk of Superior Court within 30 days after the latter of the following:

- 1) the decision of the Board is filed in the Planning Department; or

- 2) a written copy ~~thereof of the decision~~ is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case.

30-4-2 Ordinance Interpretation

30-4-2.1 Applicability

(A) Interpretation by ~~Enforcement Officer~~ Planning Director

~~When uncertainty exists, the Enforcement Officer~~ The Planning Director is authorized to make ~~all~~ interpretations concerning the provisions of this Ordinance ~~unless otherwise specified.~~

(B) Appeal

1) ~~Appeals of administrative official interpretations related to the Landscaping and Tree Preservation standards (Section XX) may be appealed to the Advisory Commission on Trees in conformance with~~ 30-4-20, ~~Appeal of Tree Preservation Administrative Decisions~~

2) ~~Appeals of administrative official interpretations of all other portions of this Ordinance may be appealed in accordance with Section~~ 30-4-19, ~~Appeal of Zoning Administrative Decision.~~

~~No person shall undertake any development activity subject to this Ordinance without first obtaining a permit from the Enforcement Officer(s). No building permit or other permit shall be issued for a building, structure, or other development activity not in conformance with this Ordinance.~~

~~Notice~~

~~Zoning Map Amendment, Special Use Permit, Conditional Zoning, Special Exception, or Variance~~

~~Whenever there is a request for a Zoning Map Amendment, Special Use Permit, Conditional zoning district, special exception, or variance involving a parcel of land, the owner of that parcel of land and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing shall be mailed a notice of the request.~~

~~Notice shall be by first class mail to the last addresses listed on the county tax abstracts for such owners.~~

~~The person or persons mailing such notices for zoning map amendments shall certify to the City Council that proper notice has been given. Such certification shall be deemed conclusive in the absence of fraud.~~

~~Notice in the case of comprehensive zoning map amendment of all property within the City shall be mailed where required by NCGS 160A-384.~~

~~Notice of such proposed action shall also be published in a newspaper of general circulation in accordance with North Carolina General Statutes.~~

~~Each site shall be posted in a conspicuous location(s) with the time, date, and notice of the Board public hearing. Posting shall not be required in the case of a special exception, variance or comprehensive zoning map amendment.~~

~~Text Amendment and Appeal~~

~~Whenever there is a request for an action involving a text amendment to this Ordinance or an appeal of an interpretation of this Ordinance, a notice of such proposed action shall be published in a newspaper of general circulation in accordance with NCGS 160A-364.~~

~~Board Meetings~~

~~Whenever there is a request for an action requiring a Board approval under this Ordinance, public notice shall be given in accordance with NCGS Chapter 143, Article 33C (Meetings of Public Bodies).~~

~~Notice of Decision~~

~~The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.~~

30-4-3 Comprehensive Plan Amendments

30-4-3.1 Applicability

(A) The City Council may consider amendments to the Comprehensive Plan not in association with a zoning map amendment, as may be required from time to time, with a recommendation from the Planning Board.

(B) The City Council may also consider amendments to the Comprehensive Plan when zoning map amendment applications are in significant conflict with the Plan, as determined by the Planning Director. Such plan amendments shall only heard by the City Council.

30-4-3.2 Coordination with Applications for Zoning Map Amendment

When required, an application for a plan amendment must be submitted and reviewed concurrently with a zoning map amendment application.

30-4-3.3 Pre-Application Consultation

In order to determine whether a plan amendment is required, a pre-application consultation is encouraged in accordance with Section 30-4-1.1, Pre-Application Consultation.

30-4-3.4 Application Requirements

An application for a plan amendment must be prepared in accordance with Section 30-4-1, Common Review Procedures, and submitted to the Planning Department.

30-4-3.5 Planning Board- Review and Recommendation

(A) Before making any recommendation on a plan amendment, the Planning Board must consider any recommendations from the Planning Director, and must conduct a public hearing.

(B) Notice and public hearing requirements must be provided be in accordance with Section 30-4-1.4.

(C) It is required that the applicant or a representative of the applicant will appear at the meetings to explain why the Comprehensive Plan should be changed.

(D) Following the public hearing, the Planning Board shall make a recommendation on the amendment to the City Council.

(E) If the Planning Board fails to make a recommendation within 45 days of an item being placed on a Board meeting agenda, City Council may proceed to hear the application.

30-4-3.6 Criteria for Planning Board Recommendations

The recommendations of the Planning Board to the City Council must show that the Planning Board has studied and considered the proposed change in relation to the following, where applicable:

(A) Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and programs of any adopted plans;

(B) Whether the proposed change would be compatible with the existing land use pattern and designated future land uses; and

(C) Whether the proposed change would meet the Comprehensive Plan amendment criteria.

30-4-3.7 City Council- Final Action

The City Council must hold a public hearing on all proposed Comprehensive Plan amendments and take any appropriate action following the hearing.

30-4-3.8 Modification of Procedure

At its discretion, the City Council may modify the Comprehensive Plan amendment procedures of this section.

30-4-4 Ordinance Text Amendments

30-4-4.1 General

The text of this Ordinance may be amended, supplemented, changed, modified, or repealed in accordance with the procedures of this section.

30-4-4.2 Authority to File

A proposal to amend the text of this Ordinance may be initiated by the ~~The~~ City Council; any ~~local~~ City Board, Commission, or Department; or any person ~~who resides or owns property within the City may request to amend the text of this Ordinance.~~

30-4-4.3 Filing

Proposals to amend the text of this Ordinance must be prepared in accordance with Section 30-4-1, Common Review Procedures, and submitted to the Planning Department.

~~Procedure~~

~~Referral to MDOC: The Planning Department shall refer text amendments to the Multijurisdictional Development Ordinance Committee (MDOC) for study at the next regular meeting. The MDOC shall make its recommendation to the Planning Board within sixty (60) days of receiving said referral from the Planning Department.~~

~~Notification: The publishing of legal notices shall be in accordance with Section 30-9-1.2(B) (Text Amendment and Appeal).~~

30-4-4.4 Planning Board–Review and Recommendation

(A) The Planning Board ~~shall~~must hold a public hearing on all proposed ~~the~~ text amendments except as provided in Section 30-4-4.6, Waiver of Procedure. The Planning Department shall present the text amendment to the Planning Board and, when referred to it, to the Zoning Commission together with the Planning Department's recommendation and, if received, the recommendation of the MDOC.

~~(C) Published notice of the Planning Board's public hearing must be provided in accordance with Section XX~~

(B) Following the close of the public hearing, the Planning Board may vote to recommend that the City Council approve, approve with revisions or deny the proposed text amendment. A majority favorable vote, with at least four (4) members present voting, shall constitute a favorable recommendation forwarded to the City Council. Text amendments receiving less than a majority favorable vote shall be forwarded to the City Council with an unfavorable recommendation. The Planning Board is also authorized to forward the proposed text amendment to the City Council with no recommendation.

~~30-4-4.5~~ City Council:–Final Action

(A) The City Council must hold a public hearing on all text amendments.

(B) Following the close of the public hearing, the City Council shall vote to approve, approve with revisions or deny the text amendment, after receipt of the recommendation from the Planning Board in accordance with the provisions of this section.

30-4-4.6 **Waiver of Procedure**

At its discretion, the City Council may waive the text amendment procedures of this section (30-4-4) procedural requirements of Section 30-3-15.2 (Procedure) and may process text amendments to this Ordinance in accordance with procedural provisions of general law NCGS Section 160A-75, and Sections 3.41 and 3.45 of the City Charter.

30-4-4.7 **Continuance**

The Planning Board or City Council may continue a text amendment for up to ~~two (2)~~ months if provided the reason for ~~said the~~ continuance is stated in the motion to continue. Nothing in this section shall prohibit a continuance from being granted for a longer period if provided it is they are mutually agreed to upon by all parties concerned. Upon failure of the Planning Board to act upon a text amendment following all proper continuances, or if no action is taken, the petitioner may take the text amendment to the City Council without a recommendation from the Planning Board.

~~Upon failure of the City Council to act upon a text amendment following all proper continuances, the text amendment shall be deemed to be denied.~~

30-4-5 Zoning Map Amendments- All Zoning Districts

30-4-5.1 General

Zone boundaries as shown on the Official Zoning Map may be amended, supplemented, changed, modified, or repealed in accordance with the procedures of this section ~~according to the provisions of~~ this Ordinance.

30-4-5.2 Authority to File

(A) General Districts, Overlay Districts, or TN Districts

~~Authorized Submission:~~ A proposal to amend the zoning map may be initiated by the City Council; any local City Board, Commission, or Department; or any person, who resides or owns property within the City, may submit an application to amend the Official Zoning Map.

(B) Conditional or Planned Unit Development Districts

Only the property owners of all the property to be included in the district may apply for a zoning map amendment to ~~an appropriate a~~ conditional ~~zoning or Planned Unit Development~~ district.

30-4-5.3 Submittal Requirements

(A) Proposals to amend the zoning map must be prepared in accordance with Section 30-4-1, Common Review Procedures, and submitted to the Planning Department. ~~provided that any application~~

(B) Applications must be submitted to the Planning Department ~~All rezoning applications shall be filed~~ at least 38 days before the meeting of the Zoning Commission at which ~~such an~~ the application is to be considered.

(C) For zoning map amendments related to Historic Districts, see Section 30-4-10.1, Local Historic District Designation, and 30-4-10.2 Zoning Map Amendments in Historic Districts for additional requirements applicable to those districts.

(D) For zoning map amendments related to Planned Unit Developments, see Section 30-4-6, Zoning Map Amendments- Planned Unit Development Districts.

30-4-5.4 Transportation Impact Study

(A) If the development requires a Transportation Impact Study (TIS, see Section XX) a pre-application meeting (Section 30-4-1.1) with the Department of Transportation is required.

(B) The Transportation Impact Study must be submitted to the Department of Transportation a minimum of 21 calendar days prior to submitting a Zoning Map Amendment application.

30-4-5.5 Conditions- Conditional District

(A) In a conditional ~~zoning~~ district, conditions may specify the location on the property of the proposed use; the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other

special purpose areas; the timing of development; the location and extent of rights-of-way and other areas to be dedicated for public purposes; the widening of streets to mitigate traffic impacts; and other such matters as the applicant may propose as conditions upon the request.

(B) Any conditions imposed in association with a conditional ~~zoning~~ district and so authorized are perpetually binding upon the property included ~~in such~~ within the conditional ~~zoning~~ district unless subsequently changed or amended as provided for in this ~~Article~~Section.

(C) In approving a conditional ~~zoning~~ district, the Zoning Commission or City Council may, ~~upon request with agreement~~ of the applicant, impose more restrictive requirements than would otherwise be required by this Ordinance, as ~~it may~~ deemed necessary to ensure that the purposes and intent of this Ordinance are met. Any ~~conditions~~ imposed may not be less restrictive than would otherwise be required, but a new public hearing would have to be held for consideration of such conditions.

(D) No condition on a conditional ~~zoning~~ district application has the effect of removing or amending any requirement of this Ordinance.

(E) Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this Ordinance. The Planning Director may order the removal of any such condition from the application.

(F) The Planning Director may remove from the application any condition deemed unenforceable.

~~Application Form: Any person authorized to seek a map amendment shall submit an application on a form provided by the Planning Department.~~

30-4-5.6 Zoning Commission–Review and Recommendation/Decision

(A) The Zoning Commission ~~must shall~~ hold a public hearing on all zoning map amendment ~~the~~ applications.

(B) Published, mailed and posted notice of the Zoning Commission's public hearing must be provided in accordance with Section 30-4-1.4~~XX~~.

(C) The Planning Department ~~shall must~~ present the zoning map amendment application to the Zoning Commission, together with the Planning Department's recommendations, at the first regularly scheduled meeting following proper filing and notice of the application. ~~The posting of signs, publishing of legal notices, and other procedures in Section 30-9-1.2 (Notice) shall be followed.~~

(D) Following the close of the public hearing, the Zoning Commission shall take action on the amendment.

1) The Zoning Commission must advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan, and it must adopt a written statement that addresses consistency between the proposed amendment and the Comprehensive Plan (and other matters as deemed relevant by the Zoning Commission) and explaining why the Zoning Commission considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. However, concluding that a proposed amendment is inconsistent with the Comprehensive Plan does not automatically preclude approval of the proposed amendment.

- 2) ~~Applications In Conflict With Connections 2025: Zoning map amendment~~ All applications in significant conflict with ~~Connections 2025~~the Comprehensive Plan ~~shall~~must be heard by the City Council regardless of the action taken by the Zoning Commission. In such cases, the Zoning Commission acts in a review and recommendation capacity.
- 3) For zoning map amendments that are consistent ~~Applications In Compliance With with Connections 2025~~the Comprehensive Plan, the Zoning Commission is authorized to take final action on the application. In such cases, ~~6-six~~ or more favorable votes from the Zoning Commission shall constitute final action to approve the application unless the action is appealed in accordance with ~~Section 2-30-3-12.2(f) (Appeals)~~paragraph (E), below. ~~Where If no proper~~ appeal is made, a copy of the ordinance ~~zoning map amendment~~rezoning the property ~~shall be~~is filed with the City Clerk.
- 4) When a zoning map amendment application receives a tie vote or an unfavorable vote from the Zoning Commission, that action ~~shall~~constitutes a final decision to deny~~denial of~~ the application, unless appealed in accordance with paragraph (E), below~~Section 2 (Appeals)~~.
- 5) When an application receives a majority favorable vote consisting of less than ~~6~~six favorable votes ~~from the Zoning Commission~~, but a majority favorable vote, from the Zoning Commission, that action ~~shall~~constitutes a favorable recommendation to approve the zoning map amendment application and is forwarded to the City Council for final action.

Appeals

- (E) Any final decision of the Zoning Commission on a zoning map amendment may be appealed to the City Council by any person, ~~who owns property or resides within the city~~. Such appeals ~~shall~~must be made within ~~10-ten~~ days of the Zoning Commission's decision by filing a written notice of appeal with the City Clerk or Planning Department. See Section 30-4-1.6, Appeals to Boards and Commissions.

30-4-5.7 City Council- Final Action

- (A) ~~The following zoning map amendment~~ applications ~~receiving favorable recommendations and all appealed decisions~~ shall~~must~~ be scheduled for public hearing before the City Council:
 - 1) those that are inconsistent with ~~require a Comprehensive Plan amendment;~~
 - 2) those that receive a majority favorable vote from the Zoning Commission consisting of fewer than six favorable votes;
 - 3) all appealed zoning map amendment decisions of the Zoning Commission;
 - 4) All original zoning map amendments;
 - 5) All zoning decisions related to Local Historic Districts; and
 - 6) All establishments of and changes to overlay district boundaries.
- (B) The City Council ~~shall~~must hear only ~~such those zoning map amendment~~ applications that as shall have ~~first~~ been heard by the Zoning Commission ~~as provided for herein~~. Upon receipt of ~~favorable~~ recommendations, proper appeals, and ~~such any~~ applications ~~as may not have~~that have not been acted upon by the

Zoning Commission as specified in subsection 30-4-5.14~~2~~ ~~30-3-12.2 (H)~~
(Continuance), the City Council ~~shall~~must hold a public hearing on such applications.

(C) Prior to approving or denying any zoning amendment application, the City Council must adopt a written statement that addresses consistency between the proposed amendment and the Comprehensive Plan (and other matters as deemed relevant by the City Council) and explaining why the City Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. However, concluding that a proposed amendment is inconsistent with the Comprehensive Plan does not automatically preclude approval of the proposed amendment.

(D) Except as provided for in subsection ~~30-3-13.2 (F)~~ ~~2~~30-4-5.4, (~~Greater Restrictions~~Conditional District- Conditions) or subsection 30-4-8.6 (Special Use Permits- Conditions) ~~and Section 30-3-14.4 (Greater Restrictions)~~, the City Council ~~may not shall neither~~ change ~~nor~~ modify, ~~nor~~ otherwise permit any change or ~~modification~~revision to any application; ~~provided~~, however, ~~that~~ the City Council may allow a reduction in size of the area of ~~any such an~~ application. Other changes or revisions to applications constitute a new application and must be resubmitted as a new application for zoning map amendment. After completion of the public hearing, the City Council ~~shall~~must take such lawful action as it may deem advisable.

30-4-5.8 Successive Applications

- (A) No application for a zoning map amendment to the same district on a given property or portion thereof ~~shall~~may be filed within a one-year period from:
- 1) the date of final action by the Zoning Commission or the City Council; or
 - 2) the date of the public hearing or scheduled public hearing before the Zoning Commission if such application is withdrawn ~~later~~less than ~~49~~24 days prior to such public hearing or scheduled public hearing.
- (B) A second application for zoning map amendment to a different district on the same property or portion thereof may be filed within a one-year period from final action on the initial application.
- (C) No more than two zoning map amendment applications ~~shall~~may be filed for a given property or portion thereof within any one-year period.
- (D) Any application for a zoning map amendment ~~a property or portion thereof~~ that is initiated by the City Council or Zoning Commission ~~is shall~~ not be subject to the provisions of paragraphs subsections 1), 2), and 3) (A), (B) and (C), above.
- (E) Any application for zoning map amendment ~~a property or portion thereof~~ that is initiated by the City Council or Zoning Commission ~~shall will~~ not be considered in determining ~~affect~~ the number of applications, their timing, filing, or any subsequent waiting periods for other applications as set forth in paragraphs (A), (B) and (C), subsections 1), 2), and 3) above.

Review and Decision-making Criteria

~~In considering a request to rezone a given property or portion thereof to any General Zoning District, the Zoning Commission or City Council shall determine that said property or portion thereof is suitable for all uses permitted in the requested General Zoning District.~~

30-4-5.9 Conditional ~~Zoning District~~-Site Plans and Permits

~~Conditional zoning~~ Site plans for ~~any~~ development ~~allowed in~~ made pursuant to any a conditional ~~zoning~~ district ~~shall must~~ be submitted for review in ~~the same manner as other~~ ~~accordance with the site plan approval~~ procedure ~~of Sections required by this Ordinance~~ 30-4-13.

30-4-5.10 Conditional District- Amendments and Modifications of Permit Conditions

(A) The Zoning Commission or City Council may ~~make a substantial~~ change or amend ~~ment to~~ a conditional ~~zoning~~ district ~~by following in~~ the same procedure as that required for the original approval of the conditional ~~zoning~~ district.

(B) The Planning Board may approve ~~minor modifications~~ Type 2 Modifications of the conditions in a conditional zoning site plan when such modifications will result in equal or better performance, provided that the objectives and purposes of the requirements and conditions of the Conditional Zoning District are maintained in accordance with Section 2-XX (Minor Type 2 Modifications of Conditions in Conditional Districts zoning).

~~Application Consideration: In considering applications for Conditional Zoning Districts, the Zoning Commission or City Council shall give due regard that the purposes and intent of this Ordinance shall be served.~~

~~Timing of Amendment Proposal: No proposal to change or amend any Conditional Zoning District shall be considered within one (1) year after the date of the original approval of such district, or within one (1) year after the hearing of any previous proposal to change or amend such district.~~

30-4-5.11 Conditional District- Violation of Conditions

Any violation of a condition in an approved conditional ~~zoning~~ district ~~shall will~~ be treated the same as any other violation of this Ordinance and ~~shall be is~~ subject to the same remedies and penalties as any such violation. Any violation of such a condition ~~shall be is~~ deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the same reason that any use permitted in a conditional ~~zoning~~ district is permitted only subject to the specified conditions.

30-4-5.12 Conditional District- Cancellation of Site Plan Approval Resolution of Condition Problems

If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the conditional ~~district zoning~~ site plan ~~shall be is~~ null and void and of no effect and proceedings ~~shall must~~ be instituted to rezone the property to its previous zoning classification.

30-4-5.13 Application Withdrawal

~~A zoning map~~ amendment application ~~for rezoning~~ may be withdrawn by the applicant ~~by filing a written notice of withdrawal with the Planning Department at least 24 days prior before to~~ the Zoning Commission meeting at which the ~~proposal application~~ is intended to be heard. ~~Applications may be withdrawn~~ After the 24-day period ~~specified in 1) above, an application may only be withdrawn~~ by action of the Zoning Commission or City Council at the ~~time of the scheduled~~ public hearing ~~on the subject application~~.

30-4-5.14 Continuance

The Zoning Commission or City Council may continue a zoning map amendment for up to ~~two (two)~~ months ~~if provided~~ the reason for ~~said the~~ continuance is stated in the motion to continue. ~~Nothing in this section shall prohibit a~~ Continuances ~~from being~~ may be granted for a longer period ~~if provided it is they are~~ mutually agreed ~~to upon~~ by all parties ~~concerned~~. Upon failure of the Zoning Commission to act upon an amendment following all proper continuances, or if no action is taken, the petitioner may take the amendment to the City Council without a recommendation from the Zoning Commission. ~~Upon failure of the City Council to act upon a text amendment following all proper continuances, the text amendment shall be deemed to be denied.~~

~~Zoning Map Amendments–Conditional Zoning Districts~~

~~General Procedure~~

~~Zoning map amendment applications for zoning map amendment to conditional zoning districts shall be processed, considered, and voted upon in accordance with the procedures of Section 30-4-5 except as otherwise expressly stated in this section.~~

30-4-6 Zoning Map Amendments–Planned Unit Development Districts

30-4-6.1 General Procedure

Planned unit development districts are special forms of conditional districts. Zoning map amendment applications for a zoning map amendment to planned unit development districts are processed, considered, and voted upon in accordance with the procedures of Section 30-4-5, except as otherwise expressly stated in this section.

30-4-6.2 Filing

The ~~planned unit development~~ rezoning application ~~shall~~ consists of the following materials:

- (A) A ~~rezoning zoning map amendment~~ application prepared in accordance with Section-30-4-5, ~~Zoning Map Amendments- All Zoning Districts.30-3-13 (Conditional Zoning Districts).~~
- (B) The concept plan approved by the Technical Review Committee for submission. This concept plan constitutes a map-based presentation of proposed zoning conditions attached to the ~~Zoning conditional district zoning map amendment~~ application. ~~It does not constitute a Conditional Zoning Site Plan as required by Section 30-3-14.3 (Submission of Site Plans).~~

30-4-6.3 Concept Plan

For the purpose of establishing conditions to be included with the conditional district application, zoning map amendment applications for a zoning map amendment to a planned unit development district must be accompanied by a concept plan for the entire property proposed to be included in the district. At minimum, the concept plan must include the elements listed below. Additional details may be added to the concept plan:

- (A) ~~Prior to submitting an application for rezoning to a CD-PD District the applicant shall submit a concept plan prepared in accordance with Appendix 2 (Map Standards) that also includes~~ the general location and amount of land proposed for

single family residential, multifamily residential, office, commercial, industrial, open space/recreation, and street use;

(B) the number of dwelling units or gross floor area and the acreage of each tract or area shown on the concept plan;

(C) the maximum height of buildings and structures in each such tract or area;

(D) the location and amount of land in flood hazard areas and any other lands not suitable for development; and

(E) proposed watershed protection measures, including their general location, if the development is within a Watershed Critical Area District or a General Watershed Area District.

30-4-6.4 Approval ~~Criteria~~Process and Guidelines

(A) The Technical Review Committee ~~shall~~must review this concept plan for consistency with the requirements of ~~Article VI (section 30-4-15, Subdivisions: Procedures and Standards)~~ and other applicable standards in this Ordinance. The Technical Review Committee, upon finding such consistency, shall approve the concept plan for submission to the Zoning Commission in combination with a ~~rezoning~~application for zoning map amendment. ~~If the concept plan is not approved for submission, it shall be returned to the applicant with written reasons for disapproval and/or requests for further information. The applicant may then revise and resubmit the concept plan.~~

~~The completed application shall be processed in accordance with Article III (Permits and Procedures).~~

~~(B) Applications for Conditional – zoning map amendment~~Planned unit development districts shall be approved only if all of the following findings are made~~are intended to achieve the following:~~

- 1) that application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
- 2) that application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
- 3) that application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
- 4) That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the City.

30-4-6.5 Effect of Approval

Approval of a zoning map amendment application and accompanying concept plan has the effect of establishing the maximum density/intensity, maximum height and general location of buildings and uses of each tract or area shown on the concept plan.

30-4-6.6 Amendments and Modifications

(A) Any proposed change in overall use, increase in density/intensity, decrease in open space and common recreational facilities, or ~~substantial-significant~~ change in the location of permitted uses or streets from what is shown on the approved concept plan ~~shall be-is~~ deemed a ~~major-substantial~~ change requiring an amendment of the planned unit development conditional ~~zoning~~ district following the same procedure as that required for the original approval of the district. Factors to be considered by the ~~Enforcement Officer~~ Planning Director in determining if a change is ~~a major~~ substantial change include the extent of the locational change and the expected impact on properties adjacent to the planned unit development. Changes determined not to be substantial changes are considered Type 2 Modifications.

(B) The Technical Review Committee may approve Type 2 Modifications of the approved concept plan in accordance with Section XX.

~~Unified Development Plan Approval~~

~~The applicant shall submit a Unified Development Plan for approval by the Planning Board. The Unified Development Plan and all subsequent preliminary plats and site plans pursuant to it constitute Conditional Zoning Site Plans as required by Section 30-4-13.3(H) (Submission of Site Plans).~~

~~The Unified Development Plan shall contain the following materials:~~

~~The concept plan with proposed phase lines, if any;~~

~~Land use, density/intensity, and traffic data required in Section 30-4-3.4(A) above;~~

~~Common Sign Plan in accordance with Section 30-4-3.3(F) (Signs); and~~

~~Documents which specify proposed setbacks or other regulations governing building placement, and other information which the Planning Board may deem pertinent to plan approval. The applicant may use district regulations provided by this Ordinance or may propose regulations unique to his development. In no case shall the Unified Development Plan leave any area proposed for development unregulated.~~

~~The Enforcement Officer shall review the Unified Development Plan for consistency with the concept plan and for compliance with all applicable provisions of this Ordinance.~~

~~The concept plan, common sign plan, and documents specified in Subsection (B)2d) above shall be recorded in the Office of the County Register of Deeds after Unified Development Plan approval and prior to any conveyance of the property, or portion thereof, or Final Plat recordation.~~

~~Relationship to Other Applicable Regulations~~

~~Except as provided by this section, a planned unit development shall be subject to all of the applicable standards, procedures, and regulations in other sections of this Ordinance.~~

30-4-6.7 Phased Development

Editor's note: This subsection may be moved to PUD standards.

Planned unit developments may be developed in phases provided that open space and common facilities ~~shall be-are~~ included such that ~~at any given phase of development~~ the cumulative area of open space in all recorded phases and the total number of dwelling units and the gross land area devoted to nonresidential land uses approved in those phases comply with ~~subsection 30-4-3.3(F)~~ Section XX (Open Space and Common Recreational Facilities).

~~the following requirements are met:~~

~~All phases shall be shown on the Unified Development Plan and numbered in the expected order of development;~~
~~The phasing shall be consistent with the open space, traffic circulation, drainage, and utilities plans for the overall planned unit development.~~

30-4-7 Establishment of Original Zoning

The procedure for establishment of original zoning, in conjunction with additional territory brought under the jurisdiction of this Ordinance by annexation or otherwise, is the same as ~~for zoning map amendments (Section 30-3-12)~~ required under Section 30-4-5, Zoning Map Amendments with regard to ~~application, notification~~ common review procedures (see Section 30-4-1), public hearing, and continuance and ~~shall follow~~ follows the same provisions as for ~~text Ordinance Text Amendments (Section 30-4-430-3-15)~~ with regard to voting by the Zoning Commission and action by the City Council. ~~Where~~ When the City Council initiates the original zoning, it ~~shall is~~ is not necessary to provide a metes and bounds description, provided that local government planning maps are utilized which clearly delineate the area involved and the proposed zoning classification(s). The maps ~~shall must~~ must be duly filed with the City Clerk upon adoption.

30-4-8 Special Use Permits

30-4-8.1 Application Authority to File

~~An application for a special use permit applications must~~ shall be ~~signed submitted only~~ by the ~~property owner of the subject property(s).~~

30-4-8.2 Filing

~~An application for special use permit must be prepared in accordance with Section 30-4-1, Common Review Procedures and submitted to the Planning Department at least 38 days before the meeting of the Zoning Commission or City Council at which such an application is to be considered.~~

30-4-8.3 Procedure

Applications for special use permits ~~shall must~~ be processed, considered, and voted upon in the ~~same~~ procedure ~~as established by Section 30-4-5, Zoning Map Amendments- All Districts, except as otherwise expressly stated in this section, that required in Section 30-3-12 (Zoning Map Amendments), except;~~

30-4-8.4 Evidence at Hearing

~~that a~~ All evidence presented at ~~the~~ public hearings on special use permits ~~shall must~~ be under oath. ~~No application for the same special use on a given property or portion thereof shall be filed within a one (1) year period from the date of final action on the previous special use application.~~

30-4-8.5 Required Findings

(A) The special use permit ~~shall must~~ be granted by the Zoning Commission or City Council when ~~each all~~ of the following findings ~~have has~~ been made:

~~that the use will not materially endanger the public health or safety if located where proposed;~~
~~That the use will meet any restrictions imposed pursuant to Section 30-3-14.4 (Greater Restrictions);~~
~~That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and~~

- 1) That the proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
- 2) That the proposed use at the particular location is convenient for the public or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood or the community; and
- 3) That the location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the ~~plan of development of the City and its environs~~ Comprehensive Plan.

(B) If the Zoning Commission or City Council does not make these findings, then the special use permit ~~shall~~ may not be granted.

(C) Review Factors

The applicant must demonstrate that the review factors listed below have been adequately addressed. If an application is denied, the approving authority must specify which of these review factors, if any, were not adequately addressed.

1) Circulation

Number and location of access points to the property and the proposed structures and uses, with particular reference to automotive, bicycle, mass transit and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2) Parking and Loading

Location of off-street parking and loading areas.

3) Service Entrances and Areas

Locations of refuse and service areas with particular reference to ingress and egress of service vehicles.

4) Lighting

Locations of exterior lighting with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

5) Signs

Appropriateness of signs considering location, height, size, and design within the context of other property in the area.

6) Utilities

Location and availability of utilities.

7) Open Spaces

Location of required yards and other open spaces and preservation of existing trees and other natural features.

8) Environmental Protection

Preservation of tree cover, floodplain, stream buffers, wetlands, steep slopes, open space and other natural features, and protection of water quality.

9) Screening, Buffering and Landscaping

Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property.

10) Effect on Adjacent Property

Effects of the proposed use on nearby property, including, but not limited to, the effects of noise, and odor.

11) Compatibility

The level of general compatibility with nearby properties and the appropriateness of the use in relationship to other properties.

12) Other Factors

Any other review factors which the approving authority considers to be appropriate to the property in question.

30-4-8.6 Greater Restrictions

In granting a special use permit, the Zoning Commission or City Council may impose more restrictive requirements as ~~it may be deemed~~ necessary ~~in order that the~~ to advance the purposes and intent of this Ordinance ~~are served,~~ provided that such requirements are directly related to the impacts of the proposed use.

30-4-8.7 Permit Perpetually Binding

Unless expired or discontinued, ~~any approved~~ special use permits ~~so authorized shall must~~ be perpetually binding upon the property unless subsequently changed or amended in accordance with this section as provided for in this Article, or ~~until~~ a use otherwise permitted in the zoning district is established.

30-4-8.8 Amendments and ~~Minor~~ Modifications

- (A) No proposal to change or amend any special use permit may be considered within one year of the date of the original authorization of such permit, or within one year of the hearing date on any previous proposal to change or amend such permit.
- (B) The Zoning Commission or City Council may ~~make a substantial change or~~ amend ~~ment to~~ a special use permit in the same procedure as that required for the original issuance of the special use permit.
- (C) ~~In accordance with Section 30-9-11.6 (Minor Modifications of Conditions in Conditional Zoning Districts or special use permits),~~ The Planning Board may approve ~~minor~~ Type 2 modifications of the conditions in the special use permit in accordance with Section 30-4-9² where such modifications will result in equal or better performance, provided that the objective and purpose of the requirements and conditions of the special use permit are maintained.

30-4-8.9 Cancellation of Permit

If for any reason any ~~condition restriction~~ imposed pursuant to these regulations is found to be illegal or invalid, such special use permit ~~shall be~~ immediately becomes null and void and of no effect.

30-4-8.10 Violation of Permit ~~Conditions~~ Restrictions

Any violation of a ~~condition restriction~~ in an approved special use permit ~~shall must~~ be treated the same as any other violation of this Ordinance ~~and shall be,~~ subject to the same

remedies and penalties as any such violation. The Zoning Commission or City Council may, after a hearing, revoke such permit on all or part of a development if it finds that the violation was intentional, was continued for an unreasonable time, or was substantially inconsistent with the purposes and intent of the zoning district.

30-4-8.11 Expiration or Discontinuance

- (A) Expiration of Permit: Authorization of a special use permit ~~shall be~~ void after ~~two~~ (2)two years or such lesser time as the authorization may specify unless use of the property has begun and/or a footing inspection has been passed.
- (B) Discontinuance of Permitted Activity: If any special use is discontinued for a period exceeding ~~eighteen~~ (18) months or replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the special use permit shall be null and void and of no effect. The owner ~~shall~~ must demonstrate that the special use has not been discontinued for a period exceeding ~~eighteen~~ (18) months or has not been replaced by a use otherwise permitted to maintain a valid special use permit.

30-4-8.12 Successive Applications

Successive applications for the same special use permit on a given property may be made after one year has passed since the date of the final action on the previous special use permit.

30-4-9 Minor Modifications

Editor's note: Type 1 and Type 2 Modifications are minor technical changes to the ordinance that would be approved by the Planning Director (Type 1 Modifications) or the TRC or Planning Board (Type 2 Modifications). Type 3 Modifications (such as certain modifications in Watershed Critical Areas) would be approved by the City Council. Type 4 Modifications (Major Watershed Modifications) would be approved by a state agency.

In the current UDO, almost all minor technical changes are called "Minor Modifications." We are proposing that the new LDO classify them by approving authority to provide clarification.

As the revisions to the current UDO move forward, the proposed standards will be examined for possible inclusion as modifications.

30-4-9.1 Purpose

Recognizing that it is sometimes possible to provide equal or better performance in furtherance of the purposes of this Ordinance through use of means other than those specified herein this Ordinance, the City Council finds it to be reasonably necessary and expedient that provisions be made for limited flexibility in administration of certain standards ~~in~~ this Ordinance.

30-4-9.2 Description

- (A) There are four classes of Modifications: Type 1, Type 2, Type 3, and Type 4. See Section 30-4-9.5, Reviewing and Approval Authorities).
- (B) These Modifications are specified technical changes that may be approved without going through the variance process (see Section 30-4-11). Approval is limited to the specified changes specifically authorized by this Ordinance only when the criteria in Section 30-4-9.3, Grounds for Modifications, have been met.
- (C) The four different classes or "types" of Modifications correspond to the increasing sensitivity or impact differential of the proposed change, or the authority responsible for approving the original application. The approval authority of different types of Modifications increases from a staff level approval for Type 1

Modifications to Technical Review Committee or Planning Board level approval for Type 2 Modifications to City Council level approval for Type 3 Modifications and to state agency level approval for Type 4 Modifications (see Section 30-4-9.5, Reviewing and Approval Authorities).

30-4-9.3 Grounds for Modifications

(A) Type 1, Type 2, and Type 3 Modifications

~~The evaluation of performance proposed modification shall must be made with regard to one purpose in Section 30-1-3 (Purpose) if one one purpose is affected. If performance with regard to more than one purpose in Section 30-1-3 (Purpose) is affected the the evaluation shall be made with regard to overall performance in furtherance of the purposes of this Ordinance. the purpose of the standard or regulation being modified, this Ordinance, and the Comprehensive Plan. The approval authority may approve a Type 1, Type 2, or Type 3 Modifications if one or more of the three grounds below are met:~~

- 1) That the proposed modification will result in equal or better performance than the standard being modified.
- 2) That the size, topography, or existing development of the property or of adjoining areas prevents conformance with a standard.
- 3) That a federal, State, or local law or regulation prevents conformance with a standard.

~~That granting the Minor Modification will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations; That, when applicable, other approval requirements for a Minor Modification of a Water Supply Watershed standard are satisfied; and~~

(B) Grounds for Major Watershed Type 4 Modifications

~~Approvals of The recommending bodies may recommend and the approval authority may approve (major watershed) modifications, but not other modifications, shall be based upon if all of the following three findings are made:~~

- 1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the approval body must find that the five following conditions exist:
 - a) ~~If, due to strict compliance he complies~~ with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, ~~his~~ their property. Merely proving that the modification would permit a greater profit to be made from the property will not be considered adequate to justify the granting of a modification. Moreover, the approval body ~~shall must~~ consider whether the modification is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of ~~his the~~ applicant's property.

- b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
- c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
- d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then applies for relief.
- e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a modification would be a special privilege denied to others, and would not promote equal justice.
- 2) The modification is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- 3) In the granting of the modification, the public safety and welfare have been assured and substantial justice has been done. The approval body shall not grant a modification if it finds that doing so would in any respect impair the public health, safety, or general welfare.

3)

30-4-9.4 Submittal Requirements

- (A)** Requests for Modification must be submitted to the Planning Department.
- (B)** Requests must be submitted at the appropriate time, and the burden is on the applicant to demonstrate that the criteria in Section 30-4-9.3, Grounds for Modifications, have been met.

Application

~~Proposed modifications of certain standards as applied to particular developments are properly evaluated only in conjunction with technical review of a site plan, subdivision plat, or watershed control plat. The modifications being applied for shall be portrayed on such plans and shall be approved, approved with conditions, or denied along with the approval or denial of such plans. To obtain approval of a modification, the burden shall be upon the developer or property owner to demonstrate that the alternate standards portrayed on the plan will yield equal or better performance in furtherance of the purposes of this Ordinance.~~

30-4-9.5 Body Reviewing and Approval Authorities

- (A)** **Planning Director**
The Planning Director has the authority to approve the following Type 1 Modifications:

- 1) A Modification to a non-conforming structure which involves a reduction of up to one foot of the required street, side or rear setback for any addition that is not exceeding the dimension of the existing setback encroachment;

Editor's note: insert graphic

- 2) An adjustment to the dimensional requirements by up to one foot when a building permit has been issued and, due to an unintentional error of the Engineering and Inspections Director in verifying the location of a structure on the property, provided the purpose and intent of the Ordinance is not impaired;
- 3) Minor adjustments to the documentation required by the Ordinance pertaining to Owner's Association;
- 4) Modification of a Nonconforming Use as provided in Section 30-2-3.3(A).

(B) Technical Review Committee

The Technical Review Committee has the authority to approve the following Type 2 Modifications:

- 1) Section XX: Minimum Street and Interior Setbacks and Minimum Building Separation [Table 30-4-6-4 in current UDO] and Open Space and/or Recreational Facilities [Subsection 30-4-6.2(C)1g) in current UDO], in multifamily developments; where the yard space triangle requirements of Subsection apply
- 2) Section XX: Additional Requirements (for multifamily developments);
- 3) Section XX: Traditional Neighborhood District Dimensional Requirements in [Table 30-4-6-6 in current UDO];
- 4) Section XX: Planned Unit Development Dimensional Standards;
- 5) Section XX: General Requirements (for manufactured dwelling parks and recreational vehicle parks);
- 6) Section XX: Manufactured Dwelling Park Requirements;
- 7) Section XX: Recreational Vehicle Park Regulations;
- 8) Section XX: Landscaping Requirements;
- 9) Section XX: Permanent Runoff Control Structures;
- 10) Section XX: Lot Dimensions and Standards;
- 11) Section XX: Streets;
- 12) Section XX: Block Length Connectivity Index;
- 13) Section XX Sidewalks (see most recent version of City of Greensboro Sidewalk Manual for guidance);
- 14) Section XX: Utilities; and
- 15) Section XX: Drainage.

(C) Technical Review Committee- Review and Recommendation

- 1) The Technical Review Committee must review all applications for Minor-Type 3 or 4 Modifications of a Water Supply Watershed standards;

- 2) ~~The Technical Review Committee must review all applications for Type 2 Modifications of conditions or condition~~ attached to a Conditional Zoning District or Special Use Permit; and
- 3) Following review of an application, the Technical Review Committee must submit a report with recommendations for application approval or denial to the appropriate approval authority.

(D) Planning Board

The Planning Board has the authority to approve the following Type 2 Modifications:

- 1) Section XX: Minor Modifications in General Watershed Areas;
- 2) Minor Section 30-4-5.10(B): Modifications of conditions in a Conditional Zoning District; and
- 3) Section 30-4-8.8: Modification of conditions-requirements of a Special Use Permit.

(E) City Council

The City Council has the authority to approve Type 3 Modifications (see Section XX: Minor Modifications in Watershed Critical Areas).

30-4-9.6 Approval Authority- Final Action

(A) Approval

Applications for Modifications that satisfy the approval criteria listed in Section Section 30-4-9.3, Grounds for Modifications, may be approved by the designated approval authority.

(B) Conditions

The approval authority may impose reasonable and appropriate conditions and safeguards to assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Additional conditions may be imposed by the approval authority for Minor Type 2 or Type 3 Modifications of a Water Supply Watershed standard. Violations of conditions and safeguards which are part of the terms of modification approval shall be deemed a violation of this Ordinance.

~~Recognizing that the evaluation of proposed alternate means intended to offer equal or better performance normally requires technical expertise and is best accomplished in conjunction with review of development plans, the City Council hereby designates the Technical Review Committee to be the appropriate planning agency to approve modifications, except as otherwise provided in Section 30-9-11.5 (Modification of General Watershed Area and Watershed Critical Area Standards) and in Section 9.11.6 (Minor Modifications of Conditions in Conditional Zoning Districts or Special Use Permits).~~

~~Does the term “development plans” above refer to Subdivision Plans, or Site Plans, or what? Does this mean that the TRC can approve the specified modifications (enumerated below (A) through (P)).~~

~~Sections Affected~~

~~The Technical Review Committee or, on appeal, the Planning Board or City Council may approve modifications to standards in the following articles, sections, and subsections:~~

~~Section 30-4-6.2(C): Minimum Street and Interior Setbacks and Minimum Building Separation (in Table 30-4-6-4) and Open Space and/or Recreational Facilities (Subsection 30-4-6.2(C)1g)); in developments where the yard space triangle requirements of Subsection 30-4-6.2(C)2a) apply~~
~~Section 30-4-6.2(C)2): Additional Requirements (for multifamily developments)~~
~~Section 30-4-6.4: Traditional Neighborhood District Dimensional Requirements (in Table 30-4-6-6)~~
~~Section 30-5-2.54(B): General Requirements (for manufactured dwelling parks and recreational vehicle parks)~~
~~Section 30-5-2.54(C): Manufactured Dwelling Park Requirements~~
~~Section 30-5-2.54(D): Recreational Vehicle Park Regulations~~
~~Section 30-5-4: Landscaping Requirements~~
~~Section 30-6-9: Permanent Runoff Control Structures~~
~~Section 30-6-10: Owners' Associations~~
~~Section 30-6-13.1(B): Development Name~~
~~Section 30-6-13.2: Lot Dimensions and Standards~~
~~Section 30-6-13.3: Streets~~
~~Section 30-6-13.4: Block Length~~
~~Section 30-6-13.5: Sidewalks (see most recent version of City of Greensboro Sidewalk Manual for guidance)~~
~~Section 30-6-13.6: Utilities~~
~~Section 30-6-13.7: Drainage~~
~~Editor's note: Paragraph below moved from Variance.~~
~~A variance may be granted where a building permit has been issued and, due to unintentional error of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional requirements, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance.~~

30-4-9.7 Modification of Water Supply Watershed Standards

(A) **Type 2 Modification- Minor Watershed Modifications in General Watershed Areas**

In *General Watershed Areas* (GWA) the Technical Review Committee ~~shall~~must conduct a technical evaluation and report its findings to the Planning Board, which ~~shall~~must approve or deny the modification request.

~~Recognizing that the evaluation of requests for minor modifications of standards in Sections 30-7-1 (Water Supply Watershed Districts), 30-7-2 (General Watershed Areas), and 30-7-3 (Watershed Critical Areas) involves both technical evaluations (normally conducted by the Enforcement Officer and the Technical Review Committee) and evaluations made in light of both water supply watershed protection policies and fundamental fairness (normally conducted by the Planning Board and City Council), the City Council hereby designates the Planning Board to be the appropriate planning agency to approve minor watershed modifications in General Watershed Areas and the City Council to be the appropriate body to approve minor watershed modifications in Watershed Critical Areas. The approval procedure shall be as follows:~~
~~In Watershed Critical Areas (WCA) the Technical Review Committee shall conduct a technical evaluation and report its findings to the Planning Board. The Planning Board shall make a recommendation to the City Council, which shall approve or deny the modification request.~~

(B) **Type 3 Modifications- Minor Watershed Modifications in Watershed Critical Areas**

In Watershed Critical Areas (WCA) the Technical Review Committee must conduct a technical evaluation and report its findings to the Planning Board, which must conduct its own evaluation and make a recommendation to City Council, which must approve or deny the modification request.

(C) **Type 4 Modifications- Modifications to Major Watershed Standards**

Recognizing that modifications to Major Watershed ~~modifications standards~~ are only approvable in unique circumstances on a case-by-case basis by the NC North Carolina Environmental Management Commission (EMC) pursuant to the North Carolina Administrative Code 15A, Section North Carolina Administrative Code 02B, 0104(r) of the EMC North Carolina Department of Environment and Natural Resources (NCDENR) "Redbook" Rules, the City Council hereby designates the Environmental Management Commission EMC as the appropriate agency to approve Type 4 Major Watershed modifications, pursuant to the EMC Rules. The approval procedures shall be is the same as in subsections 30-4-9.7(A) above, except that the Planning Board and City Council shall must make recommendations to the Environmental Management Commission EMC, which shall must approve or deny Type 4 Major Watershed modification requests.

~~A comment period of at least fourteen (14) days shall be allowed before the Planning Board hearing.~~

(D) **Notification of Other Affected Jurisdictions**

For each request for a Type 2, Type 3, or Type 4 Modification to minor or major watershed ~~modification standards~~, the Technical Review Committee Planning Director shall must notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption at least 14 days before the Planning Board hearing.

(E) **Annual Report**

A report containing a description of each project receiving a modification of watershed ~~modification standards~~ and the reasons for approval of the modification shall must be sent to the Environmental Management Commission EMC on an annual basis by January 1.

30-4-9.8 Appeals of Modification Final Action

(A) Appeals may be made pursuant to Section 30-3-11.4(C) (Action by Technical Review Committee), Section 30-3-11.4(D) (Action by Planning Board), and Section 30-6-7.7 (Appeals). Appeals of Type 1 Modification final actions by the Planning Department may be made to the Technical Review Committee.

(B) Appeals of Type 2 Modification final actions by the Technical Review Committee may be made to the Planning Board and City Council.

(C) Appeals of Type 2 Modification final actions by the Planning Board may be made to the City Council.

~~Appeals of decisions on major watershed modifications must be made on certiorari to the Guilford County Superior Court.~~

30-4-9.9 Duration of Approval

An approved modification is part of an approved plan and ~~shall have~~has the same duration as the plan approval.

~~Minor Modifications of Conditions in Conditional Zoning Districts or Special Use Permits. Recognizing that the evaluation of requests for minor modifications of conditions in Conditional Zoning Districts and Special Use Permits involves both technical evaluations and evaluations made in light of policies underlying the conditions, the City Council hereby designates the Planning Board to be the appropriate planning agency to approve such minor modifications, after receipt of a report from the Technical Review Committee.~~

~~Grounds for Modification~~

~~Equal or Better Performance~~

~~A finding by the Technical Review Committee that equal or better performance in furtherance of the purposes of this Ordinance will result from the alternate standards portrayed on the plan constitutes grounds for approval of a modification. If an alternate standard as portrayed on the plan reduces performance with regard to one or more Ordinance purposes but produces a concomitant and counterbalancing superiority of performance with regard to one or more other purposes, a modification may be approved.~~

~~Physical Constraints~~

~~A finding by the Technical Review Committee that the size, topography, or existing development of the property or of adjoining areas prevents conformance with a standard constitutes grounds for approval of a modification.~~

~~Other Constraints~~

~~A finding by the Technical Review Committee that a federal, State, or local law or regulation prevents conformance with a standard constitutes grounds for approval of a modification.~~

~~Conditions~~

~~In approving a modification, the Technical Review Committee, Planning Board, City Council, or Environmental Management Commission (EMC) may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Violations of conditions and safeguards which are part of the terms of modification approval shall be deemed a violation of this Ordinance.~~

30-4-10 Local Historic Districts and Landmarks Matters

Editor's note: language relating to historic preservation and landmarks may still need to be refined.

30-4-10.1 Local Historic District Designation

(A) Applicability

An area may be considered for designation as ~~a~~ local historic district only after the Historic Preservation Commission (HPC) deems and finds that an area is of special significance in terms of its prehistorical, historical, architectural or cultural importance, and possesses integrity of design, setting, materials, feeling and association.

(B) Authority to File

Applications for local historic district designation may be initiated by any applicant.

(C) **Pre-application Conference**

A pre-application conference with Housing and Community Development (HCD) Director is required.

(D) **Filing**

Applications for local historic district designation must be prepared in accordance with Section 30-4-1, Common Review Procedures and submitted to the Housing and Community Development Department.

(E) **Housing and Community Development- Review and Recommendation**

Housing and Community Development staff must review the application and make a determination as to whether or not the area meets the general criteria for local historic district designation in paragraph 30-4-10.1(A), above.

(F) **Historic Preservation Commission- Review and Recommendation**

- 1) Housing and Community Development staff must present the local historic district designation application to the Historic Preservation Commission, together with Housing and Community Development staff recommendations, at the first regularly scheduled meeting following proper filing and notice of the application. Housing and Community Development staff must provide a recommendation as to whether or not the area meets the general criteria for local historic district designation in paragraph 30-4-10.1(A), above.
- 2) The Historic Preservation Commission must review a requestthe application and staff recommendation to determine if an area meets the requirements for historic district designation in paragraph 30-4-10.1(A), above. If the Historic Preservation Commission determines that the requirements are met, then the HPC must prepare athey must direct that a study be conducted of the proposed district and a report prepared describing the significance of the buildings, structures, features, sites, or surroundings to be included in a-the proposed district. The report must provide-contain a description of the boundaries of the proposed district. The Historic Preservation Commission will-delivermust submit this report to the State Preservation OfficerNorth Carolina Department of Cultural Resources for review in conformance with Section 30-4-10.1(G) XX, below.
- 3) Following the receipt of any analysis and recommendation from the State Preservation Officer, a public hearing before the Historic Preservation Commission must be scheduled and advertised in accordance with Section 30-4-1.4, Notice. All property owners in the proposed district must be notified.
- 4) Following the public hearing, the Historic Preservation Commission must make a recommendation to approve or deny the application for local historic district designation.
- 5) The Historic Preservation Commission recommendation and all information relating to the application must be forwarded to the Planning Board for review and recommendation.

~~Historic District Design Guidelines must be prepared in conformance with Section XX, [reference HDDG] below.~~

~~The HPC will deliver the report with any recommendations and the Historic District Design Guidelines to the Planning Board.~~

(G) North Carolina Department of Cultural Resources- Review and Recommendation

~~The application report must be sent submitted to the North Carolina Department of Cultural Resources, acting through the State Preservation Officer (SHPO), for review. The Department of Cultural Resources State Preservation Officer shall make an analysis of and a recommendations concerning the report and the description of proposed boundaries. The Department of Cultural Resources State Preservation Officer will have has 30 calendar days to respond with a written analysis and recommendation. Failure of the Department of Cultural Resources State Preservation Officer to respond to the City within 30 calendar days after receipt of the application shall relieve the City of any responsibility to await such analysis.~~

(H) Planning Board- Review and Recommendation

~~The Planning Board must hold a public hearing concerning the local historic district designation report along with comments from the State Preservation Officer (if applicable) and the Historic Preservation Commission. Following the public hearing, the Planning Board shall must make a recommendation to the Zoning Commission to approve or deny the application.~~

(I) Zoning Commission- Review and Recommendation

~~The Zoning Commission must hold a public hearing concerning the local historic district designation report along with comments from the State Preservation Officer (if applicable) the Historic Preservation Commission, and the Planning Board. Following the public hearing, the Zoning Commission must make a recommendation to the City Council to approve or deny the application.~~

(J) City Council- Final Action

~~1) The Housing and Community Development and Planning Directors must present the local historic district designation application to the City Council, together with recommendations from the State Preservation Officer, Historic Preservation Commission, Planning Board, and Zoning Commission, at the first regularly scheduled hearing following proper filing and notice of the application.~~

~~2) Following the hearing, the City Council takes final action on the application for local historic district designation.~~

~~The application for a historic district overlay must be processed in the same manner as a zoning map amendment set forth in Section XX "Zoning Map Amendments," except that the Historic District Design Guidelines must be considered and adopted concurrently with the ordinance amending the zoning map. The ordinance of designation must reference the Design Guidelines and indicate that a copy is available from Housing and Community Development during normal working hours.~~

(K) Other Review Entities- Review and Recommendations

The City Council may also refer the report and proposed boundaries to any local preservation ~~commission-organization~~ or other interested body for review and recommendations prior to taking action.

(L) Modification or Repeal of a Historic District

Modifications to the boundaries of a historic district, ~~modifications to the Historic District Design Guidelines~~, or repeal of a historic district ~~is accomplished in the same manner~~ must be processed in the same manner as required for initial designation of a historic district.

(M) Historic District Design Guidelines

1) Before the provisions of this Section become effective, the Historic Preservation Commission must adopt Guidelines for the new historic district. These guidelines may be the existing *City of Greensboro Historic District Program Manual and Design Guidelines*, and/or separate guidelines for the new historic district. The Guidelines must be reviewed and updated at least once every five years.

2) Historic District Design Guidelines should take into account the historic, architectural, and visual elements of the district.

3) At a minimum, the Guidelines should consider the following factors:

a) Historic Significance or Quality

The quality or significance in history, architecture, archeology, or culture present in districts, sites, structures, buildings, or objects that possess integrity of location, design, setting, materials, workmanship, and feeling and association:

i) that are associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or that are associated with the lives of persons significant in the past; or

ii) that embody the distinctive characteristics of a type, period, or method of construction; or

iii) that represent the work of a master or that possess high artistic values; or

iv) that represent a significant and distinguishable entity whose components may lack individual distinction; or that have yielded, or may be likely to yield, information important in prehistory or local, State, or national history.

b) Exterior Form and Appearance

In considering exterior form and appearance, the Historic Preservation Commission should consider the following elements and any others deemed necessary by the Historic Preservation Commission, to ensure that the Guidelines are consistent with the historic or visual character or characteristics of the district:

i) Exterior features;

- ii) Height of the building or structure;
- iii) Setback and placement on lot of the building or structure, including lot coverage and orientation;
- iv) Exterior construction materials, including textures, patterns, and colors;
- v) Architectural detailing, such as lintels, cornices, brick bond, foundation materials, and decorative wooden features;
- vi) Roof shapes, forms, and materials;
- vii) Proportions, shapes, positionings and locations, patterns, and sizes of any elements of fenestration;
- viii) General form and proportions of buildings and structures;
- ix) Appurtenant fixtures and other features such as lighting;
- x) Structural condition and soundness;
- xi) Use of local or regional architectural traditions; and
- xii) Effect of trees and other landscape elements.

30-4-10.2 Designation of Landmark Signs

The following procedure must be used to designate signs as Landmark Signs. No sign may be considered a Landmark Sign unless it has received that designation through this process.

(A) Designation Procedure

- 1) An application for a landmark sign designation must be submitted to the Housing and Community Development Department in accordance with Section 30-4-1.3 Application Requirements.
- 2) The Housing and Community Development Director must forward the application and all supporting material to the Historic Preservation Commission place the application and on the next available agenda.
- 3) The applications must be considered by the Historic Preservation Commission at a public hearing. The Commission must review the application and may designate the sign as a Landmark Sign, deny the designation, or request additional information in order to make a decision. A nonconforming sign which is denied a designation will still be considered a nonconforming sign (see Section 30-2-5, Nonconforming Signs).
- 4) If the sign is designated as a Landmark Sign, a copy of the application must be submitted to the Engineering and Inspections Department. After designation, the applicant has 60 days to bring any signs that pose a hazard into a structurally safe condition. Failure to assure that signs are safe and do not pose a hazard will result in loss of the Landmark Sign designation. The Engineering and Inspections Department must certify that the sign is found to be structurally safe. Landmark Signs must conform to all other provisions of this Ordinance not in conflict with the privileges of the landmark designation.

(B) Approval Criteria

To qualify as a Landmark Sign, the sign must meet all of the following criteria:

- 1) Be recognized as important to the culture or history of Greensboro, or possess unique characteristics, or incorporate materials or craftsmanship not commonly found in newer signs.
- 2) Bear a close resemblance to its appearance when it was installed.

30-4-10.3 Zoning Map Amendments in Historic Districts

Zoning map amendments for property within a historic district ~~shall be~~ processed and considered in accordance with the procedures of Section 30-4-5, Zoning Map Amendments- All Zoning Districts, the same manner as zoning map amendments outside of historic districts except as follows:

- (A) The Planning Department ~~shall~~ must refer such requests to the Historic Preservation Commission for review at the next regular meeting. The Historic Preservation Commission ~~shall~~ must make its recommendation to the Zoning Commission within 45 days of receiving the application from the Planning Department.
- ~~(D)~~ The Historic Preservation Commission must vote to recommend that the Zoning Commission approve or deny the proposed amendment. The Historic Preservation Commission must base its decision on whether or not an amendment is congruous with the goal of preserving and maintaining the character of buildings, structures, features, sites, and setting found within the historic district. The Historic Preservation Commission may not consider issues unrelated to the preservation of buildings, structures, features, sites, and setting found within the historic district. A majority favorable vote, with at least four (4) members present voting, shall constitute a favorable recommendation forwarded to the City Council. Text amendments receiving less than a majority favorable vote shall be forwarded to the City Council with an unfavorable recommendation. Historic Preservation Commission Zoning Commission

Landmarks

~~Adoption of an Ordinance of Designation~~

~~Upon compliance with the procedures set out in Section 30-9-8.16 (Designation Procedure), the County Board of Commissioners, the Gibsonville and Jamestown Town Councils, and the Greensboro and High Point City Councils may adopt, amend, or repeal an ordinance designating one (1) or more historic properties. The ordinance shall describe each property designated therein, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, and/or archaeological value, including the approximate area of surrounding land, and any other information the appropriate Board of Commissioners or council deems necessary within the authority of this Section. For each building, structure, site, area, or object designated as a historic property, the ordinance shall require that the waiting period set forth in Section 30-9-8.17 (Certificate of Appropriateness Required) be observed prior to its demolition, material alteration, remodeling, or removal. For each designated historic property, the ordinance shall also provide for a suitable sign on the property that the property has so been designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right of way.~~

~~Criteria for Designation~~

~~No property shall be recommended for designation as a historic property unless it is deemed and found by the Historic Properties Commission to be of special significance in terms of its history,~~

1 ~~architecture, and/or cultural design, setting, workmanship, materials, feeling, and/or~~
2 ~~association.~~Inventory

3 ~~An inventory of all properties of historical, architectural, and archaeological significance has~~
4 ~~been completed for the County, High Point, Jamestown, Greensboro, and Gibsonville. The~~
5 ~~inventory shall serve as a guide for the identification, assessment, and designation of historic~~
6 ~~properties.~~

7 ~~Designation Procedure~~

8 ~~Certificate of Appropriateness Required~~

9 ~~A property which has been designated as a historic property as provided in this Section may be~~
10 ~~materially altered, restored, moved, or demolished only following the issuance of a Certificate of~~
11 ~~Appropriateness by the Historic Properties Commission in accordance with the procedures and~~
12 ~~standards set forth in NCGS 160A-395 et seq. Certificates of Appropriateness for designated~~
13 ~~properties located in historic districts shall be issued and processed by the local Historic~~
14 ~~Preservation Commission. An application for a Certificate of Appropriateness authorizing the~~
15 ~~demolition of a designated building or structure or the destruction of an object may not be~~
16 ~~denied. However, the effective date of such a Certificate may be delayed for a period of up to~~
17 ~~one hundred eighty (180) days from the date of approval. The maximum period of delay (one~~
18 ~~hundred eighty (180) days) shall be reduced by the Commission where it finds that the owner~~
19 ~~would suffer extreme hardship or be deprived of beneficial use of or return from such property~~
20 ~~by virtue of the delay. During such period the Historic Properties Commission may negotiate~~
21 ~~with the owner and with any other parties in an effort to find a means of preserving the building,~~
22 ~~structure, or object.~~

23 ~~Certain Changes Not Prohibited~~

24 ~~Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any~~
25 ~~exterior architectural feature in or on a historic property that does not involve a change in design,~~
26 ~~material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration,~~
27 ~~restoration, demolition, or removal of any such feature when a building inspector or similar~~
28 ~~official certifies to the Commission that such action is required for the public safety because of~~
29 ~~an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner~~
30 ~~from making any use of his property not prohibited by other statutes, ordinances, or regulations.~~

31 ~~Criteria for Commission Review~~

32 ~~To provide guidelines to owners of historic properties; to provide reasonable standards to assist~~
33 ~~the Historic Properties Commission in its review, during the waiting period required by Section~~
34 ~~30-9-8.17 (Certificate of Appropriateness Required), of an owner's proposed demolition, material~~
35 ~~alteration, remodeling, or removal of a historic property; and to provide reasonable standards to~~
36 ~~assist the Commission in determining whether to recommend the revocation or removal of~~
37 ~~historic property designation on account of a change in a property which has caused its historical~~
38 ~~significance to be lost or substantially impaired, the Historic Properties Commission shall adopt~~
39 ~~criteria for review which shall be submitted to the Board of Commissioners or council for its~~
40 ~~approval prior to the Commission's review of an owner's application for Certificate of~~
41 ~~Appropriateness and prior to the Commission's recommendation of revocation or removal of~~
42 ~~designation.~~

43 ~~Conditions to Certain Approvals for Authentic Restoration or Reconstruction~~

44 ~~In the event that the Historic Properties Commission, in reviewing an owner's application for a~~
45 ~~Certificate of Appropriateness during the waiting period required by Section 30-9-8.17~~
46 ~~(Certificate of Appropriateness Required), shall find that a building or structure for which a~~

~~building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the Board of Adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of said property. Such conditions as may be set by the Historic Properties Commission and the Board of Adjustment shall be conditions for the issuance of the building permit.~~

Required Data

~~The Historic Properties Commission shall require data as are reasonably necessary to determine the nature of the owner's proposed actions which are made known to the Commission when the owner submits the application for a Certificate of Appropriateness and during the waiting period required by Section 30-9-8.17 (Certificate of Appropriateness Required). The owner's application for a Certificate of Appropriateness shall not be considered complete until such required data has been submitted.~~

30-4-10.4 Certificate of Appropriateness

(A) Applicability

- 1) ~~Applications for development that is located within a designated historic district require a Certificate of Appropriateness for installation, alteration, relocation, restoration or demolition of:~~ A Certificate of Appropriateness is required for all activities specified in this section, regardless of whether a building permit is or is not required.
- 2) A Certificate of Appropriateness as to the treatment of exterior features is required for the construction, reconstruction, alteration, relocation, or demolition of the exterior portion of any building or other structure (including but not limited to masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features); any aboveground utility structure; or any type of outdoor advertising or other sign.
- 3) For the purposes of this section, "exterior features" includes the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material; the size and scale of the building; and the type and style of all windows, doors, light fixtures, signs, and ~~other appurtenant fixtures~~ location of all such signs. In the case of outdoor advertising signs, "exterior features" means the style, material, size, and location of all such signs. Such "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.
- 4) ~~Within any local historic district, the~~ Within any local historic district, the City and all public utilities, except as provided under Section 30-4-10.4(B), Activities Not Requiring Certificate of Appropriateness, must obtain a Certificate of Appropriateness prior to initiating ~~in a historic district~~ any changes in the character of street paving, street width, utility installations or removals, lighting, street trees, walls, fences, sidewalks, or exterior of buildings or structures on property or streets in which they have a fee or other interest.
- 5) The Historic Preservation Commission may authorize Housing and Community Development staff to review and approve minor work, provided

that no application for a Certificate of Appropriateness may be denied without formal action by the Historic Preservation Commission. A listing of activities considered minor work is contained in the *Historic District Program Manual and Design Guidelines*.

(B) Activities Not Requiring Certificate of Appropriateness

The following activities do not require a Certificate of Appropriateness

- 1) The ordinary maintenance or repair of any exterior architectural feature in a historic district which does not involve a change in design, material, or outer appearance.
- 2) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature if the ~~Engineering and Inspections Director~~Building Inspector or Enforcement Officer has certified in writing to the Historic Preservation Commission (~~HPC~~) that such action is required to protect the public safety because of unsafe or dangerous conditions.
- 3) The ordinary maintenance, repair, or replacement of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs, street light fixtures, etc., and repair or replacement of such items in the event of equipment failure, accidental damage, or natural occurrences such as electrical storms, tornadoes, ice storms, and the like, as long as the work does not involve a change in design or materials.
- 4) Interior modifications to a structure; however building permits and other approvals may still be required.

(C) Authority to File

Certificate of appropriateness applications may be made by the City or a public utility, a property owner or a designated agent.

(D) Filing

- 1) Applications for a Certificate of Appropriateness must be submitted to the Housing and Community Development Department in accordance with Section 30-4-1, Common Review Procedures.
- 2) In order to be considered by the Historic Preservation Commission at its regular monthly meeting, a complete ~~When relating to activities located within a designated historic district, a~~ Certificate of Appropriateness application must be submitted to the ~~Department of appropriate~~ Housing and Community Development ~~(HCD) staff~~ at least 14 days prior to the ~~next regularly scheduled HPC meeting in conformance with Section 30-4-1.3XX (-“Application Requirements).”~~ The application must be accompanied by sketches, drawings, photographs, specifications, descriptions, and/or other information of sufficient detail to clearly show the proposed change. ~~are encouraged and may be required.~~

(E) Notification

- 1) Housing and Community Development staff will make a reasonable attempt to identify and notify the owners of surrounding property likely to be affected by the application for a Certificate of Appropriateness. Owners of property within at least 100 feet of the subject property must be notified by mail.

2) Notification must be provided in accordance with Section 30-4-1.4, Notice.

(F) HCD- Review and Recommendation/Decision

- 1) Housing and Community Development must review an application in consideration of the review criteria contained in Section 30-4-10.4(H).
- 2) Applications for “minor work” may be approved by the Housing and Community Development Director.
- 3) Any application for “major work” or any “minor work” applications recommended for denial shall be delivered to the Historic Preservation Commission with a recommendation by the Housing and Community Development for consideration at the next regularly scheduled meeting.

(G) HPC- Final Action

- 1) The application shall be placed on the agenda for the next HPC meeting. The Historic Preservation Commission must consider applications for Certificates of Appropriateness at a public hearing.
- 2) The Historic Preservation Commission will have 60 days to act on an application for certificate of appropriateness. With the written agreement of the applicant, the Historic Preservation Commission may continue an application. If the Historic Preservation Commission fails to act within that time period, the application shall be deemed approved. ~~This shall not prohibit an extension of time where mutual agreement has been reached between the HPC and the applicant.~~
- 3) ~~HPC shall review an application.~~ In reviewing an application for Certificate of Appropriateness, the Historic Preservation Commission must refer to the Historic District Program Manual and Design Guidelines, in consideration of the review criteria contained in Section 30-4-10.4(H), and the recommendation of the Housing and Community Development Director. HCD.
- 4) The Historic Preservation Commission may view the premises and seek the advice of the North Carolina Department of Cultural Resources or other expert advice.
- 5) The Historic Preservation Commission may approve, approve with modifications or conditions, or deny an application for a Certificate of Appropriateness.
- 6) When granting approval, the Historic Preservation Commission may prescribe such reasonable and appropriate conditions and safeguards to ensure that the recommendations of the *Historic District Program Manual and Design Guidelines* are met.

(H) Review Criteria

In considering a Certificate of Appropriateness, the Historic Preservation Commission may deny applications for work that would be incongruous with the special character of the district, the approved *Historic District Program Manual and Design Guidelines*, and the following:

~~Historic Significance or Quality~~

~~The quality or significance in history, architecture, archeology, or culture present in districts, sites, structures, buildings, or objects that possess integrity of location, design, setting, materials, workmanship, and feeling and association;~~
~~that are associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or that are associated with the lives of persons significant in the past; or~~
~~that embody the distinctive characteristics of a type, period, or method of construction; or~~
~~that represent the work of a master or that possess high artistic values; or~~
~~that represent a significant and distinguishable entity whose components may lack individual distinction; or that have yielded, or may be likely to yield, information important in prehistory or local, State, or national history; and~~

Exterior Form and Appearance

~~In considering exterior form and appearance, the Historic Preservation Commission may take into account, but is not limited to, the following elements to ensure that they are consistent with the historic or visual character or characteristics of the district:~~

~~Exterior features;~~
~~Height of the building or structure;~~
~~Setback and placement on lot of the building or structure, including lot coverage and orientation;~~
~~Exterior construction materials, including textures, patterns, and colors;~~
~~Architectural detailing, such as lintels, cornices, brick bond, foundation materials, and decorative wooden features;~~
~~Roof shapes, forms, and materials;~~
~~Proportions, shapes, positionings and locations, patterns, and sizes of any elements of fenestration;~~
~~General form and proportions of buildings and structures;~~
~~Appurtenant fixtures and other features such as lighting;~~
~~Structural condition and soundness;~~
~~Use of local or regional architectural traditions; and~~
~~Effect of trees and other landscape elements.~~

(I) Dimensional Regulations and Exceptions

Structures within a historic district must comply with the regulations of the underlying zoning district, except as follows:

- 1) Structures erected in a historic district may use the prevailing street setback of structures on the same side of the street in accordance with Section 30-7-1.4(A)1)d) ~~30-4-7.2 (Prevailing Street Setback)~~ Street Setback Reduction.
- 2) All street setback (except as provided in subsection 1) above), interior setback, building coverage, and height requirements shall comply with applicable zoning regulations unless a special exception is approved by the Board of Adjustment (see Section 30-4-11). The special exception ~~shall~~ may be ~~granted~~ approved only if it ~~complies with the intent of the Historic District Design Guidelines and if first recommended by the Historic Preservation Commission~~ finds that granting such an exception meets the intent of the Historic District Program Manual and Design Guidelines and makes a recommendation for approval.
- 3) Where the Historic Preservation Commission, ~~in considering an application for a Certificate of Appropriateness,~~ finds that the number of off-street parking

spaces and/or design standards for parking lots specified by this Ordinance would render the site incompatible with the *Historic District Design Guidelines* ~~and the historic aspects of the district~~, it may recommend to the Board of Adjustment ~~that~~ a special exception to the provisions of the off-street parking requirements and/or design standards be granted. The Board of Adjustment may ~~authorize~~ approve a special exception ~~a authorizing reduced standard concerning modifications to~~ off-street parking ~~standards if provided~~ it finds:

- a) that ~~the a~~ lesser standard ~~will does~~ not create problems due to increased on-street parking; and
- b) that ~~the a~~ lesser standard ~~will does~~ not create a threat to the public safety.

- 4) Unless otherwise authorized by ~~a the~~ Certificate of Appropriateness, all off-street parking areas must be located to the rear of the principal building(s); however, parking in existing driveways and previously approved ~~designated~~ parking areas is exempt from this requirement.

(J) Discontinuance Expiration of Certificate of Appropriateness

- 1) A Certificate of Appropriateness expires six months after the date of issuance if the work authorized by the Certificate has not commenced. If, after commencement, the work is discontinued for a period of 12 months, the Certificate immediately expires.
- 2) A Certificate of Appropriateness authorizing demolition expires six months after the authorization date set by the Historic Preservation Commission if the work has not commenced. If, after commencement, the demolition work is discontinued for a period of 12 months, the Certificate immediately expires.
- 3) Upon expiration of a Certificate of Appropriateness, no work authorized by the Certificate (including demolition) may be performed until a new Certificate of Appropriateness has been approved in conformance with this Section.

~~The discontinuance of work or the lack of progress toward achieving compliance with the Certificate of Appropriateness for a period of one year shall render the Certificate null and void and of no effect and application must be made for a new Certificate. However, in the event the issuance of a Certificate is appealed, the one year period shall not commence until a final decision is reached regarding the matter.~~

(K) Appeal

Appeals of decisions by the Historic Preservation Commission may be taken to the Board of Adjustment in conformance with Section 30-4-1.6, Appeals to Boards and Commissions.

30-4-10.5 Prevention of Demolition by Neglect

(A) Applicability

- 1) Owners (or other persons having legal possession, custody, and control) of designated Guilford County Landmarks ~~or and~~ significant structures located in ~~a designated within a local~~ historic district may not allow the properties to decay or deteriorate as defined in Section 30-4-10.5(B) Conditions of Neglect Defined. Upon written notice from the City, the owner must repair exterior

features as indicated in the notice in conformance with the requirements of this Section.

- 2) Significant structures are defined as having significance based on architectural survey records on file in the Housing and Community Development ~~Department (HCD)~~, and as shown on maps contained in the designation report for each historic district.

(B) Conditions of Neglect Defined

The following is a listing of some of the conditions of neglect:

- 1) Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
- 2) Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
- 3) Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
- 4) Deterioration or crumbling of exterior plasters or mortars.
- 5) Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- 6) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint, or weathering due to lack of paint or other protective covering.
- 7) Rotting, holes, and other forms of decay.
- 8) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
- 9) Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
- 10) Deterioration of fences, gates, and accessory structures.
- 11) Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

(C) Determination of Neglect

- 1) Petitions requesting a determination that a structure requires correction to prevent demolition by neglect can be filed with the Historic Preservation Commission or Guilford County Joint Historic Properties Commission in one of three ways:
 - a) by the historic district neighborhood association;
 - b) by written petition of ten property owners in the historic district; or
 - c) by the ~~Building Inspector~~ Engineering and Inspections Director or other City official.
- 2) On receipt of a petition, the Housing and Community Development Director must notify the owner of the subject property of the complaint, investigate the situation, and prepare a report on the condition of the property.

- 3) If, upon investigation, the Housing and Community Development Director determines that the property may be in a condition of substantial neglect, the Housing and Community Development Director must notify the owner of this determination in writing. This notification must inform the owner that he may schedule a meeting with the Housing and Community Development Director to mediate an agreement to resolve the allegations of the petition, and that the owner may request that a claim of undue economic hardship be considered during the mediation (see Section 30-4-10.5(G)). This meeting must be held within 30 days of the date of notification letter.
- 4) If, during the mediation process, the owner enters into an agreement to resolve the allegations in the petition, the agreement constitutes a final order enforceable pursuant with this Section.
- 5) If this mediation does not take place within 30 days of the date of the notification letter to the property owner, or does not result in an agreement, then the Housing and Community Development Director must place the item on the next available Historic Preservation Commission agenda and provide notice as required in Section 30-4-1.4, Notice.
- 6) If after notice and public hearing, no agreement has been reached to resolve the allegations of the petition, the Historic Preservation Commission may refer the petition to the Engineering and Inspections Director for the filing of a complaint according to the procedure as set forth in paragraph (D), below.

~~HPC shall conduct a hearing and hear testimony from HCD and the owner if present. If after notice and hearing, HPC determines a condition requires the correction of deterioration or making of repairs to prevent demolition by neglect, HPC may choose one of the following options:~~

~~Vote to file the Petition listing specific defects with the Greensboro Inspections Director requesting that he act to require the correction of deterioration or making of repairs; or, With the agreement of the property owner, vote to continue the matter for a specified period of time to allow for necessary repairs to be made in order to prevent demolition by neglect. If the property owner is given time to make repairs, the property owner may elect to make a claim of undue economic hardship in accordance with the procedure set out in subsection.~~

(D) Action by the Engineering and Inspections Director

- 1) After receipt of a petition from the ~~approval authority~~ Historic Preservation Commission or Guilford County Joint Historic Properties Commission (GCJHPC), the Engineering and Inspections Director must notify the owner in compliance with Section 30-4-10.5(F), Notification of Property Owner. The notice must offer the owner an opportunity to appear at a meeting with the Engineering and Inspections Director ~~not less than~~ at least 30 days ~~or but no~~ more than 45 days following receipt of the notification; and indicate that purpose of the hearing is to discuss the charge of neglect and to determine whether the owner and/or other parties in interest wishes to ~~petition the HPC for~~ enter a claim of undue economic hardship.
- 2) The Engineering and Inspections Director ~~shall~~ must hold ~~one or more meetings~~ at least one meeting with the owner.
- 3) Following the meeting(s), the Engineering and Inspections Director must issue a written determination that the structure is undergoing demolition by

neglect because it is deteriorating, or its condition is contributing to deterioration, according to the criteria of Section 30-4-10.5(B) supported by findings of fact regarding the allegation. The determination must be issued within 45 days of the original notification of the property owner. The determination may order repairs ~~required~~ and establish a deadline for completion.

- 4) The Engineering and Inspections Director must deliver the written determination to the owner in compliance with Section 30-4-10.5(F), Notification of Property Owner.
- 5) In the event the owner wishes to petition for a claim of undo economic hardship, the Engineering and Inspections Director's order is stayed until after the Historic Preservation Commission determination in accordance with Section 30-4-10.5(G) Safeguards from Undo Economic Hardship.

(E) Failure to Comply

If the owner of property fails to comply with an order to repair, the owner is subject to such remedies and penalties as may be provided for by State law and/or by Section 30-4-10.5(J) Penalties and Remedies.

(F) Notification of Property Owner

- 1) The Engineering and Inspections Director must notify the owner either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained after the exercise of reasonable diligence, and the Engineering and Inspections Director shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest. The notice must then be served by publishing the notice once each week for two successive weeks in a newspaper generally circulated within the City. Where published notice is provided, a notice of the pending proceedings must be posted in a conspicuous place on the premises thereby affected.
- 2) The notification must contain the allegations and the process for making a decision regarding the petition, including any applicable deadlines.

(G) Safeguards from Undue Economic Hardship

1) Action by Engineering and Inspections Director

When a claim of undue economic hardship is made, the Engineering and Inspections Director must notify the Historic Preservation Commission or the Guilford County Joint Historic Properties Commission, as applicable, within three days following the hearing on the complaint.

2) Hearing Required

- a) The Historic Preservation Commission or the Guilford County Joint Historic Properties Commission, as applicable, must schedule a hearing on the claim at the next possible regular meeting.
- b) The Historic Preservation Commission or the Guilford County Joint Historic Properties Commission, as applicable, may direct its staff to furnish additional information as it believes relevant. The Historic Preservation Commission or Guilford County Joint Historic Properties

1 Commission, as applicable, must also state which form of financial proof
2 it deems relevant and necessary to a particular case.

3 **3) Action by the Petitioner**

- 4 a) The petitioner (person claiming undue hardship) must present the
5 information provided under subsection 4) , below (Minimum Evidence
6 Required) to the Historic Preservation Commission or the Guilford
7 County Joint Historic Properties Commission, as applicable. An owner
8 and/or parties in interest may be required to furnish additional
9 information that may be relevant to its determination of undue economic
10 hardship.
- 11 b) In the event that any of the required information is not reasonably
12 available to the owner and/or parties in interest and cannot be obtained
13 by the owner, the owner must describe the reasons why such information
14 cannot be obtained.
- 15 c) When a claim of undue economic hardship is made, the owner and/or
16 parties in interest must provide evidence during the hearing upon the
17 claim, describing the circumstances of hardship.

18 **4) Minimum Evidence Required**

- 19 a) Nature of ownership (individual, business, or non-profit) or legal
20 possession, custody, and control.
- 21 b) Financial resources of the owner and/or parties in interest.
- 22 c) Cost of repairs.
- 23 d) Assessed value of the land and improvements.
- 24 e) Real estate taxes for the previous two years.
- 25 f) Amount paid for the property, date of purchase, and party from whom
26 purchased, including a description of the relationship between the owner
27 and the person from whom the property was purchased, or other means
28 of acquisition of title, such as by gift or inheritance.
- 29 g) Annual debt service, if any, for the previous two years.
- 30 h) Any listing of the property for sale or rent, price asked, and offers
31 received, if any.
- 32 i) ~~For income producing property.~~ Additional evidence required for income
33 producing property:
- 34 i) Annual gross income from the property for the previous two years.
- 35 ii) Itemized operating and maintenance expenses for the previous two
36 years, including proof that adequate and competent management
37 procedures were followed.
- 38 iii) Annual cash flow, if any, for the previous two years.

Hearing on Claim

5) Final Action by HPC the Historic Preservation Commission or Guilford County Joint Historic Properties Commission, as Applicable

a) Within 60 days of the hearing on the claim, the Historic Preservation Commission or Guilford County Joint Historic Properties Commission, as applicable, shall must approve or deny a claim. Findings in support or opposition of the claim must be entered into the record.

b) In the event of denial of a claim of undue economic hardship, the Historic Preservation Commission or Guilford County Joint Historic Properties Commission, as applicable, shall must notify the Engineering and Inspections Director, and the Director shall must issue an order requiring such property to be repaired within the time specified.

6) Relief Plan

a) In the event of approval of a claim of undue economic hardship, the approval must be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to:

- i)** property tax relief as may be allowed under North Carolina law;
- ii)** loans or grants from the City, or other public, private, or nonprofit sources;
- iii)** acquisition by purchase or eminent domain;
- iv)** building code modifications;
- v)** changes in applicable zoning regulations; or
- vi)** relaxation of the provisions of this article sufficient to mitigate the undue economic hardship.

b) The approval authority shall must notify the Engineering and Inspections Director, and the Engineering and Inspections Director shall must issue an order requiring the property to be repaired within the time specified, and according to the provisions of the recommended plan.

(H) Appeals

Decisions made by the Engineering and Inspections Director or by Historic Preservation Commission or Guilford County Joint Historic Properties Commission, as applicable, may be appealed to the Greensboro Board of Adjustment in conformance with Section 30-4-19, Appeals of Zoning Administrative Decisions. Application must be filed by an aggrieved party with the Board of Adjustment within ten days following receipt of the order for repair of the property or determination.

(I) Other City Powers

Nothing contained within this Section limits the City's power to declare an unsafe building or a violation of the minimum housing code.

(J) Penalties and Remedies

Enforcement of this Section may be by any one or more of the following methods, and the institution of any action under any of these methods does not relieve any

party from any other civil or criminal proceeding prescribed for violations and prohibitions.

1) Equitable Remedy

The City may apply for any appropriate equitable remedy to enforce the provisions of this article.

2) Civil Penalty

Civil penalties may be levied in accordance with Section 30-5-5.4(C), Prevention of Demolition by Neglect Penalties.

30-4-11 Variances

30-4-11.1 General

- (A) The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- (B) The Board of Adjustment may grant variances for reconstruction, rehabilitation, or restoration of structures that are individually listed or are contributing structures within an historic district.
- (C) No variance may be ~~permitted-granted~~ that would have the effect of allowing a use not permitted in the subject district (see Section 30-8-1, "Permitted Use Table") or a density exceeding the maximum allowed in the subject district.
- (D) No variance may be ~~permitted-granted~~ where explicitly prohibited by this Ordinance.

30-4-11.2 Authority to File

An application for a variance must be signed by the owner of the subject property.

30-4-11.3 Application Filing

An application for a variance ~~shall must~~ be prepared in accordance with Section 30-4-1, Common Review Procedures and submitted to the Planning Department ~~submitted in writing~~ at least 24 days before the ~~to the~~ Board of Adjustment meeting where the application will be heard, by filing a copy of the application with the Enforcement Officer.

30-4-11.4 Procedure Board of Adjustment- Decision

~~The Board of Adjustment shall:
fix a reasonable time for holding a public hearing on the variance request;
give notice of the variance request as prescribed in Section 30-9-1.2 (Notice); and~~

- (A) ~~decide the variance request within a reasonable time.~~ The Board of Adjustment must hold a public hearing on all variance applications. Notice of the hearing must be provided in accordance with Section 30-4-1.5, Hearings.
- (B) Following the close of the public hearing, the Board of Adjustment must take action on the application in consideration of Section 30-4-11.5 (General Variance) Findings of Fact). The Board may grant approval of a variance application subject to certain conditions or restrictions (See Section 30-4-11.7).

30-4-11.5 General Variance Findings of Fact

(A) The Board ~~shall must~~ make the following findings of fact: ~~that the requirements of Section 30-9-6.10(D) (Granting of Variance) have been met by the applicant.~~

1) There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this Ordinance. The Board of Adjustment may reach this conclusion if it finds that:

a) if the applicant complies with the provisions of this Ordinance, ~~he can make no reasonable use of his property~~ no reasonable use could be made of the property;

b) the hardship of which the applicant complains results from unique circumstances related to the applicant's property;

c) the hardship results from the application of this Ordinance to the property; and

d) the hardship is not the result of the applicant's own actions.

2) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.

3) The granting of the variance assures the public safety and welfare and does substantial justice.

(B) Any variance granted by the Board of Adjustment ~~shall must~~ be the minimum variance ~~that will make possible the~~ required for reasonable use of the land, building, or structure. The fact that property may be utilized for greater profit, however, ~~will is not be~~ considered adequate to justify the granting of a variance.

(C) Neither the nonconforming use of lands, buildings, or structures in the same zoning district; nor the permitted use of lands, buildings, or structures in other zoning districts; nor personal circumstances ~~shall may~~ be considered as grounds for the issuance of a variance. Furthermore, mere financial hardship does not constitute grounds for the granting of a variance.

~~A variance may be granted where a building permit has been issued and, due to unintentional error of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional requirements, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance.~~

~~Granting of Variance~~

~~A variance may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:~~

30-4-11.6 Flood Damage Prevention Variance

Editor's note: Standards relating to Flood Damage Prevention and Floodplain Permits are currently being reviewed and revised by staff to conform to new federal regulations. The revised standards will be taken forth for adoption prior to the completion of the LDO. Once the new ordinance is adopted, it will be incorporated into the LDO.

Considerations

~~In passing upon a variance to the flood damage provisions of this Ordinance, the Board of Adjustment must consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:~~

~~the danger that materials may be swept onto other lands to the injury of others;~~
~~the danger to life and property due to flooding or erosion damage;~~
~~the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
~~the importance of the services provided by the proposed facility to the community;~~
~~the necessity to the facility of a waterfront location, where applicable;~~
~~the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
~~the compatibility of the proposed use with existing and anticipated development;~~
~~the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;~~
~~the safety of access to the property in times of flood for ordinary and emergency vehicles;~~
~~the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;~~
~~the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and~~
~~the effect that granting the variance would have on the City's eligibility for Federal Flood Insurance.~~

Granting of Variances

~~Variances may be granted for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~

~~Variances shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.~~

~~Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

~~Variances shall only be granted upon:~~

~~a showing of good and sufficient cause;~~

~~a determination that failure to grant the variance would result in exceptional hardship; and~~

~~a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~

~~Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.~~

30-4-11.7 Conditions

In granting a variance, the Board of Adjustment may impose conditions more restrictive requirements as it may deem necessary in order that the to advance the purposes and intent of this Ordinance are served, provided that such conditions are directly related to the impacts of the proposed use and are roughly proportional to those anticipated impacts.

- (A) A variance granted subject to a condition ~~shall be permitted~~ may continue only so long as there is compliance with the condition.
- (B) Violation or invalidation of conditions required for approval, for any reason, ~~shall~~ will be deemed a violation of this Ordinance.
- (C) In the event that any such condition is held invalid, for any reason, such holding has the effect of invalidating the variance granted and renders the variance null and void.
- (D) If a violation or invalidation of a condition of a variance occurs, the ~~Enforcement Officer~~ Engineering and Inspections Director may revoke the Certificate of Compliance.

30-4-11.8 Duration of Approval

The Board may specify a time duration within which construction, operation, or installation ~~shall must~~ commence. Unless otherwise specified, construction, operation, or installation ~~shall must start be commenced~~ within ~~twelve (12)~~ months of the date of issuance of a variance or it ~~shall~~ becomes void. If construction or operation is ~~commenced started~~ within the specified time period, the variance approval shall continues in force so long as the affected building, operation, or installation remains.

30-4-11.9 Appeal

Appeal from final decision by the Board of Adjustment on a variance may be taken by filing a petition for certiorari with the Guilford County Superior Court in conformance with Section 30-4-1.7, Appeals from Board of Adjustment.

30-4-12 Special Exceptions

30-4-12.1 General

A special exception may be granted by the Board of Adjustment in accordance with the procedure established in this Section.

30-4-12.2 Authority to File

An application for special exception must be signed by the owner of the subject property.

30-4-12.3 Filing

An application for a special exception ~~shall must be prepared in accordance with Section 30-4-1, Common Review Procedures and submitted to the Planning Department be submitted in writing to the Board of Adjustment by filing a copy of the application with the Enforcement Officer, at least 24 days before the Board of Adjustment meeting where the application will be heard.~~

30-4-12.4 Review and Decision- Board of Adjustment

- (A) The Board of Adjustment must hold a public hearing on all special exception applications. Notice of the hearing must be provided in accordance with Section 30-4-1.5, Hearings.
- (B) The ~~Enforcement Officer shall~~ Planning Director must present the special exception application to the Board of Adjustment, ~~together with the Enforcement Officer's recommendations,~~ at the first regularly scheduled meeting following proper filing and notice of the application.

(C) Review and recommendation by the Historic Preservation Commission is required for application requests relating to properties located within ~~designated~~ local historic districts.

(D) A special exception may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

- 1) The special exception is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; ~~and~~;
- 2) The granting of the special exception assures the public safety and welfare and does substantial justice.

30-4-12.5 Conditions

The Board of Adjustment may attach conditions to approval of a special exception with respect to location, design, construction, equipment, maintenance, duration of authorization, or operation as it may deem advisable. If such conditions and safeguards are accepted by the applicant, the Board of Adjustment must grant the special exception; otherwise the special exception must be denied.

30-4-12.6 Specific Requirements

Where specific requirements or conditions are listed in this Ordinance as a prerequisite to granting a special exception, the Board of Adjustment may not grant a variance of those requirements or conditions.

30-4-12.7 Duration of Approval

The Board of Adjustment may specify a time duration within which construction, operation, or installation must commence. Unless otherwise specified, construction, operation, or installation must start within 12 months of the date of issuance of a special exception or it becomes void.

~~fix a reasonable time for holding a public hearing on the special exception request;
give notice of the special exception request as prescribed in Section 30-9-1.2 (Notice); and
decide the special exception request within a reasonable time.~~

~~General Requirements~~

~~The Board of Adjustment shall make findings of fact that the requirements of Section 30-9-6.11 (D) (Granting of Special Exception) have been met by the applicant.~~

~~All special exceptions shall be nontransferable, may be authorized and issued for either a limited or an indefinite period of time, and shall be revocable by the Board of Adjustment at any time for failure to comply with the requirements of this Ordinance or any imposed condition or safeguard.~~

~~All special exception requests for property within a historic district shall be accompanied by a recommendation from the Historic Preservation Commission.~~

~~Granting of Special Exception~~

~~A special exception may be granted by the Board of Adjustment if evidence presented by the applicant persuades it to reach each of the following conclusions:~~

~~The special exception is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.~~

~~The granting of the special exception assures the public safety and welfare and does substantial justice.~~

~~Conditions~~

~~In granting a special exception, the Board of Adjustment may prescribe such reasonable and appropriate conditions and safeguards with respect to location, design, construction, equipment, maintenance, or operation as it may deem advisable so that the purpose of this Ordinance will be served, public welfare secured, and substantial justice done. If such conditions and safeguards are accepted by the applicant, the Board of Adjustment shall grant the special exception; otherwise the special exception shall be denied.~~

~~A special exception granted subject to a condition shall be permitted only so long as there is compliance with the condition.~~

~~Violations of such conditions and safeguards, when a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance.~~

~~In the event that any condition is held invalid, for any reason, such holding shall have the effect of invalidating the special exception granted and shall render the special exception null and void. If a violation of a condition of a special exception occurs, the Enforcement Officer shall give the special exception holder written notice (by certified or registered mail or by personal service) that the matter shall be placed on the agenda for a hearing at the next scheduled meeting of the Board for the purpose of revoking the special exception; however, the Board shall afford the person aggrieved an opportunity to be heard.~~

~~Duration~~

~~The Board of Adjustment may specify a time duration within which construction, operation, or installation shall commence. Unless otherwise specified, construction, operation, or installation shall be commenced within twelve (12) months of the date of issuance of a special exception or it shall become void.~~

~~Specific Requirements~~

~~Where specific requirements or conditions are listed in this Ordinance as a prerequisite to granting a special exception, the Board of Adjustment shall not grant a variance of those requirements or conditions.~~

30-4-13 Site Plan and Plot Plan ~~Procedures~~

30-4-13.1 ~~Applicability~~Types of Plans

(A) Plot Plans ~~Required~~

~~No building permit for a single family or two-family dwelling and accessory buildings on a single lot shall be issued until a Plot Plan prepared in accordance with Appendix 2 (Map Standards) has been approved.~~

If a site plan is not otherwise required, the following development activities require submittal of a plot plan prepared in accordance with the approved Plot Plan Standards as published and amended by the Planning Department:

- 1) Single family and two-family dwellings, and accessory buildings;
- 2) Expansions of buildings, parking areas, or open areas of land where the amount of the expansion area does not exceed 3,000 square feet;
- 3) Colocation on an existing wireless telecommunications facility that meets the standards of Section 30-8-4.3(N), Wireless Telecommunications Facilities;
- 4) Modular classrooms;
- 5) Temporary sales and construction offices;

6) Changes in use which result in an increase of one land use classification number [editor's note: this may change based on changes to use classification and landscape standards]; and

7) Paving a legally existing gravel parking lot that has ten or fewer spaces.

(B) Site Plans Required

For all other site developments a No other building permit shall be issued on a lot until a Site Plan prepared in accordance with Appendix 2 (Map Standards) has been approved for the development. No new or amended Site Plan shall be required if: the design review application as published and amended by the Planning Department must be submitted.

an adequate Site Plan is already on file;
no increase in or rearrangement of parking is proposed or required; and
no increase in impervious surface is proposed or required.

30-4-13.2 Approval Required

(A) An approved Plan is required prior to issuing any Building Permit. No conditional zoning site plan or plot plan shall will be approved prior to approval of the underlying conditional zoning district to which it applies.

(B) No permanent improvements may be installed and no building permit shall will be issued for any development activity within a conditional zoning district except in accordance with the approved conditional zoning until a site plan or plot plan is approved.

30-4-13.3 Approval Authority

(A) The Technical Review Committee is the approval authority for: all other applications.

1) all developments within a designated Water Supply Watershed;

2) all developments or additions to existing developments containing nine or more dwelling units in a single building;

3) all developments or additions of 15,000 square feet of gross floor area or more; or

4) any use of land or expansion of a use of land involving more than 40,000 square feet of gross land area, regardless of whether or not buildings are located on the site.

uses of land without buildings, uses of land with buildings less than 15,000 square feet of gross floor area, expansions of uses of land without buildings; or expansions of uses of land with buildings less than 15,000 square feet of gross floor area involving more than 40,000 square feet of land area.

(B) The Planning Department Director is the approval authority for applications submitted for all other plans.
developments, or additions to existing developments, of less than 15,000 square feet of gross floor area and containing not more than eight dwelling units in a single building; or

~~uses of land without buildings or expansions of uses of land without buildings involving less than 40,000 square feet.~~

30-4-13.4 Coordination with Other Procedures

(A) General

Site plan review may proceed concurrently with a building plan review, an application for a Certificate of Appropriateness, an application for a grading permit, or other applications for approvals required for the particular development. When a watershed development plan approval, Stormwater Management Plan (Chapter 27, Section XX), or approval in accordance with the Approach and Clear Zone Plan of the Piedmont Triad International Airport Authority approval is required, that approval must be obtained prior to or concurrent with site plan approval.

(B) With Special Use Permit

1) Compliance with Approved Permit

All other permits issued for any development activity on a property subject to a special use permit (see Section 30-4-8) must comply with the approved special use permit.

~~No permit shall be issued for any development activity on property subject to a special use permit except in accordance with the approved special use permit.~~

2) Submission of Site Plans

Site plans for any development made pursuant to any special use permit ~~shall be~~ are submitted for review in the same manner as other development site plans required by this Ordinance.

30-4-13.5 Submission of Site Plans Filing

(A) General

1) A site plan must be prepared in accordance with design review application (published by the Planning Department), and submitted to the Planning Department in accordance with Section 30-4-1.3, Application Requirements.

2) For plans requiring Technical Review Committee approval (see Section 30-4-13.3, Approval Authority) that meet the requirements of this Ordinance, the plan will be placed on the agenda for the next scheduled Technical Review Committee meeting. Site Plans for review by the Technical Review Committee shall be submitted to the Planning Department at least seven (7) days prior to the next scheduled meeting.

(B) Developments Requiring a Transportation Impact Study

1) If the development requires a TIS-Transportation Impact Study (TIS, see Section XX) is required in conformance with Section 30-3-20 (Transportation Impact Study (TIS)), a presubmittal a pre-application meeting (Section 30-4-1.1) with the Transportation Director is required, conference must be held prior to the preparation of the TIS

2) The Transportation Impact Study and the TIS shall must be submitted to the Greensboro Department of Transportation Director a minimum of twenty-one (21) calendar days prior to site plan submittal.

~~Site Plan Compliance: Site Plans shall contain all applicable information listed in Appendix 2 (Map Standards). The Site Plan shall consist of three sheets: a site layout; a water and sewer utility plan; and a conceptual landscaping plan showing planting yard areas, types of plantings (i.e. canopy trees, understory trees, shrubs), and number of plantings. A grading, erosion control, and watershed control plan, if required, may be included as part of the Site Plan or submitted separately. Depending upon the scale or complexity of the development, any or all of the sheets may be combined. A site layout with proper information may also serve as a preliminary subdivision plat.~~

30-4-13.6 Review and Approval

- (A) ~~Plans satisfying the review criteria in Section 30-4-13.7 must be approved, and the applicant may proceed with other requirements necessary to obtain a building permit.~~
- (B) ~~If the plan is granted conditional approval, the applicant has 30 days to revise and resubmit the plan to the Planning Department. If all of the conditions for approval have been met and the plan is otherwise unchanged, the Planning Department must approve the plan. If the plan is not revised within 30 days to meet the approval conditions, or the applicant notifies the Planning Department that no more revisions to the site plan will be made, the plan must be deemed denied.~~

30-4-13.7 Review Criteria

~~Site plans that meet the following criteria must be approved:~~

- (A) ~~It is in compliance with all applicable Ordinance requirements and other related City policies;~~
- (B) ~~It is in compliance with all previously approved applicable plans; and~~
- (C) ~~It takes into account topography and other significant natural features.~~

30-4-13.8 Expiration of Plan Approval

~~If construction or development activity does not begin within two years following Plan approval, or is begun and then discontinued for a period greater than 180 days, approval expires and a new application must be submitted in accordance with the this section.~~

30-4-13.9 Amendments-Revisions to Approved Plans

- (A) ~~Minor-Limited revisions changes-~~to the approved Plan, such as those resulting from field conditions or which result in an equivalent or better performance may be approved by the Planning Director, ~~through approval of a Minor Modification (Section XX).~~
- (B) Significant changes to the approved Plan, as determined by the Planning Director, must be resubmitted for approval. Plans resubmitted for approval are processed as if they were a new application.

~~Coordination with Other Procedures~~

~~To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with a building plan review, an application for a Certificate of Appropriateness, an application for a grading permit, or other applications for approvals required for the particular development. When a watershed development plan approval or Airport Authority approval is required, that approval shall be a prerequisite to Site Plan approval.~~

30-4-13.10 Appeal

(A) ~~If a plot plan has been denied or granted conditional approval, the applicant may appeal to the Technical Review Committee in conformance with Section 30-4-1.6, Appeals to Boards and Commissions.~~

(B) ~~If an application a site plan has been denied or granted conditional approval, the applicant may appeal the application to the Planning Board in conformance with Section 30-4-1.6, Appeals to Boards and Commissions. The application must be appealed within 15 days of denial or conditional approval.~~

Site Plan and Plot Plan Approval

Approval of Site/Plot Plan

~~The Site Plan or Plot Plan shall be approved when it meets all requirements of this Ordinance.~~

Approval Authority:

~~The Planning Department has approval authority for Site Plans submitted for:~~

~~developments, or additions to existing developments, of less than fifteen thousand (15,000) square feet of gross floor area and containing not more than eight dwelling units in a single building; or~~

~~uses of land without buildings or expansions of uses of land without buildings involving less than forty thousand (40,000) square feet.~~

~~The Technical Review Committee has approval authority for Site Plans submitted for developments or uses of land without buildings that exceed the thresholds established in subsection 1) above.~~

~~Action by Technical Review Committee: If the Site Plan is approved, the applicant may proceed with other requirements necessary to obtain a building permit. If the Technical Review Committee denies the Site Plan, reasons for the denial shall be stated in writing and the Site Plan may be revised and resubmitted. The Technical Review Committee shall take action within thirty (30) days of reviewing the Site Plan. If the Site Plan is denied or granted conditional approval, or if no action is taken within thirty (30) days by the Technical Review Committee, the applicant may appeal the Site Plan to the Planning Board. The appeal may be made within fifteen (15) days after denial, conditional approval, or lack of action by the Technical Review Committee.~~

~~Action by Planning Board: If a Site Plan is appealed to the Planning Board, it shall be scheduled, subject to filing deadlines, for review at the next regularly scheduled meeting. If the Site Plan is denied or granted conditional approval, or if no action is taken by the Planning Board, the applicant may appeal the Site Plan to the City Council within fifteen (15) days after Planning Board action.~~

~~Conditional Approvals: If the Site Plan is granted conditional approval by the Planning Department, Technical Review Committee, Planning Board, or City Council, the applicant shall revise and resubmit the Site Plan to the Planning Department. The Planning Department shall review the revised Site Plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the Site Plan is not revised within sixty (60) days to meet the approval conditions, or the applicant notifies the Planning Department that he is unwilling to revise the Site Plan, it shall be deemed denied.~~

~~Expiration of Site Plan Approval: If construction or development activity does not begin within two (2) years following site plan approval, or is begun and then discontinued for a period greater than one hundred and eighty (180) days, such approval shall expire and a new Site Plan shall be submitted in accordance with the procedures in this section.~~

30-4-14 Street and Utility Construction

30-4-14.1 Coordination with Site Plan and Plot Plan

Where public or private street, sidewalk, water, sanitary sewer, or storm water facility construction is shown on a site plan or plot plan, the street and utility construction plans must be submitted with the site plan or plot plan.

30-4-14.2 Subdivision, Including Group Development

Where public or private street, sidewalk, water, sanitary sewer, or storm water facility construction is shown on a subdivision preliminary plat, the street and utility construction plans must be submitted following approval of the preliminary plat.

~~Plans: When required, street and utility construction plans for all public or private streets and water, sanitary sewer, and storm sewer facilities shall be submitted to the City following conditional approval or approval of the Site Plan. For each phase of the Site Plan, street and utility construction plans shall include all improvements lying within or adjacent to that phase and all water, sanitary sewer, and storm sewer lines lying outside that phase and being required to serve that phase.~~

30-4-14.3 No Construction without Plan Approval

None of the improvements listed above ~~shall~~may be constructed until the street and utility construction plans for such improvements have been reviewed and approved ~~by the City.~~

30-4-14.4 Inspections

Work performed pursuant to approved street and utility construction plans ~~shall~~must be inspected and approved prior to issuance of a final certificate of compliance ~~by the City.~~

~~Permanent engineered stormwater controls and soil erosion and sedimentation control devices installation.~~

~~Any approved permanent engineered stormwater controls and soil erosion and sedimentation control device(s) may be installed prior to approval of street and utility construction plans.~~

~~(A) Application for Variances, Special Exceptions, and Interpretations. — \$125~~

~~(B) Rehearing Request. — \$225~~

~~(C) No refund of the fee or any part thereof shall be made once an application is filed unless the application is withdrawn at least seventeen (17) days prior to the Board of Adjustment meeting at which the request is intended to be heard.~~

~~Zoning Map Amendment or Special Use Permit~~

~~(A) Less Than One Acre. — \$250~~

~~(B) One to 4.9 Acres. — \$600~~

~~(C) Five or More Acres. — \$1000~~

~~(D) No refund of the fee or any part thereof shall be made once an application is filed unless the application is withdrawn at least nineteen (19) days prior to the Zoning Commission meeting at which the request is intended to be heard.~~

~~(E) No fee shall be required if the request is for initial zoning of property in conjunction with an annexation.~~

~~Text Amendment~~

~~Text Amendment. — no fee~~

~~Development Plans, Final Plats, etc.~~

~~(A) Preliminary Subdivision and Planned Unit Development Plans:~~

~~1) Per plan — \$175~~

~~2) Plus, per lot \$30~~

~~(B) Group Housing Development, Manufactured Dwelling Park, or Recreational Vehicle Park Plans:~~

~~1) Per plan — \$100~~

~~2) Plus, per dwelling unit or space — \$6~~

~~(C) Group Nonresidential Development and Other Plans Not Listed Above:~~

~~1) Per plan — \$100~~

~~2) Plus, per 1,000 square feet of gross floor area — \$6~~

~~(D) Plans Not Requiring TRC Approval:~~

~~> 3000 sq. ft. and < 15,000 sq. ft. or new principal buildings containing less than 15,000 sq. ft. — \$100~~

~~(E) Construction and Utility Drawings:~~

~~1) Water lines, per linear foot of construction — \$0.60~~

~~2) Sewer lines, per linear foot of construction — \$0.60~~

~~3) Roadway construction, per linear foot of const. — \$0.75~~

~~(F) Minor Revisions:~~

~~1) Per plan — \$25~~

~~2) Plus the per lot, square footage, linear footage of construction, dwelling unit or space fee listed above applied to any increase —~~

~~(G) Other Fees~~

~~1) Exempt plat no fee~~

~~2) Watershed plans — no fee~~

~~3) Easement release — \$125~~

~~4) Condominium and townhouse declarations \$50~~

~~5) Final plat — \$50~~

~~6) Petition to close or abandon a street or alley — \$225~~

~~7) Street name change by private petition request — \$175~~

~~Permits~~

~~(A) Sign Permit: The fee shall be based upon area of the sign face as follows:~~

~~Sign Size:~~

~~1) 1 to 15 Square Feet \$20~~

~~2) 16 to 50 Square Feet — \$25~~

~~3) 51 to 100 Square Feet — \$35~~

~~4) 101 to 200 Square Feet — \$40~~

~~5) 201 to 300 Square Feet — \$60~~

~~6) 301 to 400 Square Feet — \$90~~

~~7) 401 to 500 Square Feet — \$125~~

~~8) 501 to 600 Square Feet — \$175~~

~~(B) Temporary Event Permit: no fee~~

~~Certificates~~

~~(A) Certificate of Appropriateness — no fee~~

30-4-15 Subdivision

30-4-15.1 Applicability

- (A) Subdivision means all divisions of a tract or parcel into two or more lots, building sites, or other divisions when any one of more of those divisions is created for the purpose of sale or building development (whether immediate or future), and includes all divisions of land involving the dedication of a new street or change in existing streets. This includes Group Developments and property declared under the NC Condominium Act (NCGS 47C-1 et. seq.).
- (B) Subdivision approval is required ~~before the division of land into two or more parcels~~, except as specifically exempted in Section 30-4-15.2 (Actions Exempt from Subdivision Requirements).

~~Approval Required~~

~~No Subdivision Without Approval~~

~~No real property, including property declared under the NC Condominium Act (NCGS 47C-1 et. seq.), lying within the City as now or hereafter fixed shall be subdivided except in conformance with all applicable provisions of this Article. Violation of this section shall be a misdemeanor.~~

~~Date of Compliance~~

~~After the effective date of this Ordinance, no plat for the subdivision of land within Guilford County shall be filed, accepted for recording, or recorded, nor shall the Clerk of the Superior Court order the recording of a plat until it has been submitted to and approved by the City. (See definition of "Subdivision" in Article II for exclusions.)~~

30-4-15.2 Actions Exempt from Subdivision Requirements

- (A) The following are not included within the definition of "subdivision" and are exempt from the requirements of this Section:
- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and resultant lots are equal to or exceed the standards of this Ordinance;
 - 2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved,
 - 3) The public acquisition by purchase of strips of land for the widening or opening of streets, or for public transportation system corridors;
 - 4) The division of a tract in single ownership into no more than three lots where the entire area is no greater than two acres, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of this Ordinance.

Commentary: For subdivision activity in General Watershed Areas, see especially the standards in Section XX, and in Watershed Critical Areas, see the standards in Section XX.

- (B) No review or approval is required for exempt subdivisions; however, Planning Director certification of exempt status is required. Exempt plats, if prepared, must be stamped by the Planning Director noting their exemption, and signed so that they can be recorded by the Office of the Register of Deeds.

30-4-15.3 Subdivision Types

(A) Minor Subdivisions

~~Minor Subdivision is defined as any subdivision involving six or fewer lots and not requiring any new public street, not more than four (4) lots fronting on an existing improved public street(s), not requiring any new public street(s) for access to interior property, not requiring extension of public sanitary sewer or water line, and not requiring any modification or variance of this Ordinance.~~

~~Plats meeting all requirements of a Minor Subdivision may be approved by the Planning Department. Any decision by the Planning Department may be appealed by the applicant to the Technical Review Committee within thirty (30) days of the decision.~~

(B) Major Subdivisions

~~Subdivisions not meeting the definition of Minor Subdivisions are considered Major Subdivisions.~~

~~A subdivision involving more than four (4) lots, requiring new public street(s) for access to interior property, requiring extension of public sanitary sewer or water line, or requiring a modification or variance of any requirement of this Ordinance.~~

30-4-15.4 Coordination with Other Procedures

To lessen the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may start the subdivision approval process simultaneously with applications for grading permits or other applications for approvals required for a particular project. When a watershed development plan approval is required, ~~approval of all portions of that plan except stormwater control construction plans shall be a prerequisite. must be approved prior~~ to Preliminary Plat approval.

30-4-15.5 Dedication of Right-of-Way and Open Space

Editor's note: This section is under review by staff and the changes will be forthcoming.

(A) Rights-of-Way and Easements

1) The approval and recordation of a plat constitutes dedication to and acceptance by the City ~~and the public~~ of the right-of-way of each public street, alley, or utility or drainage easement shown on such plat.

2) The approval and recordation of a plat does not constitute acceptance of maintenance responsibility within ~~such any~~ right-of-way or easement. Improvements within ~~such~~ rights-of-way or easements, such as utility lines, street paving, drainage facilities, or sidewalks, may be accepted for maintenance by the City Council or by the administrative officer authorized to inspect and, where appropriate, accept the dedication of such improvements.

(B) Drainageway and Open Space

Land designated as public open space on a Final Plat ~~shall be considered to be offered for dedication until such offer is accepted by the City. The offer may be accepted by the City through:~~ can either be conveyed in fee simple or dedicated as an easement to the City in accordance with the following standards:

1) Fee Simple

- a) ~~This is the~~ conveyance of fee simple marketable title (unencumbered financially and environmentally) to ~~the drainageway and open space~~ the property to the City ~~of Greensboro. at the time of Final Plat recordation.~~
- b) ~~The offer of fee simple marketable title to the drainageway and open space must be accepted by the City Council and then recorded with the Register of Deeds.~~

2) Open Space Easement

- a) ~~This is the conveyance of fee simple marketable title to the drainageway and open space to an owner's association with a dedicated easement to the City.~~
- b) ~~The approval and recordation of a plat constitutes dedication to, and acceptance by, the City and the public of the drainageway and open space easement shown on such plat. The approval and recordation of a plat does not constitute acceptance of maintenance responsibility within such easement. Public utilities and storm drainage facilities may be accepted for maintenance by the City Council or by the administrative officer authorized to inspect and, where appropriate, accept the dedication of such improvements.~~
- 3) ~~Until lands offered for such~~ dedication ~~have has~~ been accepted ~~by the City, they~~ lands so offered may be used for open space purposes by the owner or by the owners' association. Lands so offered for dedication ~~may must~~ not be used for any purpose inconsistent with the proposed public use the standards set forth in Section XX.

~~express action by the City Council;~~
~~express action by an administrative officer designated by the City Manager; or~~

30-4-15.6 Sketch Plan

- (A) ~~A plan prepared in advance of formal submittal for purposes of receiving informal staff comments.~~
~~Required for Technical Review Committee Approval~~
- (B) ~~A Sketch Plan is encouraged for subdivisions meeting the following criteria:~~
- 1) A Sketch Plan is required for Technical Review Committee review for any subdivision of property that involves more than fifty (50) lots or more; and-
- 2) other subdivisions as specified in this Ordinance.

Editor's note: more details will be added to this section as Ordinance revisions continue. ~~for staff review whenever adjoining land is owned by the subdivider seeking approval of a major subdivision.~~

Required for Staff Review

~~A Sketch Plan must be prepared in accordance with Appendix 2 (Map Standards) and submitted to the Planning Department Procedures for approval shall correspond to the procedures found in Section 30-6-7 (Preliminary Plat).~~

30-4-15.7 Preliminary Plat

(A) Required Applicability

A Preliminary Plat ~~shall be~~ required for all subdivisions, ~~including Group Developments.~~

~~In the interest of efficiency and economy, every subdivision applicant is strongly encouraged to schedule a pre-application Conference with the planning staff prior to the submission of a Preliminary Plat.~~

(B) Submission of Plans Filing

- 1) The Preliminary Plat ~~shall~~ must be prepared by a registered land surveyor, registered landscape architect, or licensed engineer. ~~Plans and shall must~~ be prepared in accordance with Appendix 2 (Map Standards) design review application (published by the Planning Department), and submitted in accordance with Section 30-4-1.3, Application Requirements.

~~Applications for approval of a minor subdivision including Group Development approval, shall be submitted to the Planning Department. must be presented to the Planning Department at least seven days prior to the next scheduled meeting of the TRC.~~

- 2) ~~Subdivisions requiring Technical Review Committee approval shall be presented to the Planning Department at least seven (7) days prior to the next scheduled meeting of the Technical Review Committee. If a TIS is required in conformance with Section 30-3-20 (Transportation Impact Study (TIS)), a pre-application conference must be held prior to the preparation of a TIS and the A TIS Transportation Impact Study, if required, shall must be submitted to the Greensboro Department of Transportation Department a minimum of twenty-one (21) calendar days prior to site plan Preliminary Plat submittal.~~

Preparation

Preliminary Plat

Transportation Impact Study (TIS)

~~A Transportation Impact Study (TIS) shall be prepared by a licensed engineer in accordance with Section XX "Transportation Impact Study (TIS)."~~

(C) Planning Director- Decision

- 1) The Planning Director may approve Minor Subdivision Preliminary Plats. The Department must review the plat for conformance with the requirements of this Ordinance and may consult with other agencies or officials by referral.
- 2) The Planning Director must approve, approve with conditions, or deny the Preliminary Plat.
- 3) Plats approved by the Planning Director may proceed toward Final Plat approval.
- 4) Plats denied or granted conditional approval by the Planning Director may be appealed to the Technical Review Committee in conformance with Section 30-4-1.6, Appeals to Boards and Commissions.

(D) **Technical Review Committee- Decision**

- 1) ~~The Planning Director shall must present Major Subdivision reviewed and completed plat Preliminary Plats and appealed plats to the Technical Review Committee at its next regularly scheduled meeting.~~
- 2) ~~The Technical Review Committee shall review the Major Subdivision Preliminary Plats or appealed plats for compliance with regulations. This review shall be made by the members of the Technical Review Committee and by any and may consult with other agencies or officials by referral.~~
- 3) ~~If external street connections and public input are involved (see Section XX, Connectivity), the plat review may not be completed until such requirements are met.~~
- 4) ~~The Technical Review Committee must approve, approve with conditions, or deny the plat.~~
- 5) ~~If the plat is granted conditional approval, the applicant has 30 days to revise and resubmit the plat to the Planning Department. If all of the conditions for approval have been met and the plat is otherwise unchanged, the Planning Director must approve the plat. If the plat is not revised within 30 days to meet the approval conditions, or the applicant notifies the Planning Department that no more revisions to the plat will be made, the plat is deemed denied. The Technical Review Committee shall take action within thirty (30) days of reviewing the Preliminary Plat, except in those instances where street connections are involved and public input is sought pursuant to the provisions of Section 30-6-13.3(C).~~
- 6) ~~Plats approved by the Technical Review Committee may proceed toward Final Plat approval.~~
- 7) ~~Plats denied by the Technical Review Committee may be appealed to the Planning Board in conformance with Section 30-4-1.6, Appeals to Boards and Commission.~~

~~Action By Technical Review Committee~~

~~Timing~~

~~Approval~~

~~If the Preliminary Plat is approved, the applicant may proceed toward Final Plat approval.~~

~~Denials~~

~~If the Preliminary Plat is denied, the reasons shall be stated in writing. The applicant may revise and resubmit a plat which has been denied. Decisions of the Technical Review Committee may be appealed by the applicant to the Planning Board within thirty (30) days of the Technical Review Committee decision.~~

(E) **Action By Planning Board- Appeal**

~~The Planning Board must consider the appeal at the next regularly scheduled meeting. The Board has until the next available scheduled meeting following the initial appeal hearing to act on an appeal.~~

~~The Planning Board may approve, grant conditional approval, or deny the plat in accordance with the procedures found in Section 30-6-7.5 (Action by Technical Review Committee). If a Preliminary Plat is appealed to the Planning Board, it shall be reviewed at the next regularly scheduled meeting.~~

Conditional Approval

~~If the application is granted conditional approval, the applicant has 60 days to revise and resubmit the application to the Planning Department. If all of the conditions for approval have been met and the application is otherwise unchanged, the Planning Department shall approve the application. If the application is not revised within 60 days to meet the approval conditions, or the applicant notifies the Planning Department that he or she is unwilling to revise the preliminary plat, it shall be deemed denied.~~

Appeals

~~If the plat is denied or granted conditional approval, or if no action is taken within thirty (30) days by the Technical Review Committee, the applicant may appeal to the Planning Board within thirty (30) days after denial, conditional approval, or lack of action by the Technical Review Committee. If the plat is denied or granted conditional approval, or if no action is taken by the Planning Board, the applicant may appeal to the City Council within fifteen (15) days after the Planning Board decision. The City Council shall then approve, grant conditional approval, or deny the plat.~~

(F) Revisions to a Preliminary Plat

1) Limited revisions to approved Preliminary Plats may be approved by the Planning Director.

2) Significant changes to an approved Preliminary Plat must be resubmitted for review and approval as a new submittal.

(G) Duration of Approval Period

Preliminary plat approval ~~shall be~~ remains valid for two ~~(2)~~ years and may be extended in accordance with the provisions of Section 30-4-15.8(H) ~~30-6-12~~ (~~Recordation-Expiration~~ of Final Plats).

Fees

~~Fees according to the Schedule of Fees shall be due and payable when the Preliminary Plat is submitted.~~

30-4-15.8 Final Plat

(A) Required Applicability

1) A Final Plat shall be required for all subdivisions except for Group Developments not ~~entailing requiring~~ easement dedication, ~~street~~ right-of-way dedication, or permanent ~~runoff control structures engineered stormwater controls~~.

2) Upon approval of the Preliminary Plat and other required plans, the applicant is eligible to submit a Final Plat for approval.

(B) Preparation Filing

The final plat ~~shall must~~ be prepared by a registered land surveyor in accordance with ~~Appendix 2 (Map Standards)~~ the design review application (published by the Planning Department), and submitted in accordance with Section 30-4-1.3, Application Requirements.

(C) **Conformance with Preliminary Plat**

The final plat must conform to the approved preliminary plat and may cover only that portion of the preliminary plat proposed for recordation, together with all improvements, rights-of-way, and easements needed to support the lots shown.

(D) **Required Improvements**

No ~~A~~ final plat shall ~~may not~~ be approved until all required improvements, including stormwater controls, have been installed and accepted by the City or surety has been provided as set forth in Section ~~30-3-9XX~~ (Sureties or Improvement Guarantees).

(E) **Planned Unit Development Final Plat Approval**

No final plat for a phase of a planned unit development ~~shall~~ may be approved unless:

- 1) All open space and common facilities included in previous phases have been conveyed and/or completed; and
- 2) There is no violation of the concept plan or conditional zoning site plan ~~Unified Development Plan or Conditional Zoning District~~ in any previous phase.

(F) **Planning Director- Decision**

- 1) The Planning Director must review the final plat for conformance with the approved preliminary plat and all other requirements, including Section 30-4-15.8(D) (Required Improvements).
- 2) The Planning Director may approve or deny the final plat.
- 3) Approved final plats must have a signed ~~written statement~~ approval certification to this effect shall be entered on the face of the plat in a form that is satisfactory to the Planning Director. This statement is found in Appendix 2 (Map Standards).
- 4) Plats denied by the Planning Director may be appealed to the Technical Review Committee in conformance with Section 30-4-1.6, Appeals to Boards and Commission.

~~Approval of the Preliminary Plat shall constitute tentative approval of the Final Plat if the Final Plat is substantially unchanged from the approved Preliminary Plat. Substantial changes from the Preliminary Plat will require review and reapproval by the Planning Department for minor subdivisions, or by the Technical Review Committee for major subdivisions, to ensure compliance with existing regulations.~~

(G) **Owners' Association**

When a development contains common ~~are~~ easements, no final plat ~~shall~~ may be recorded until Owners' Association documents prepared in accordance with Section XX. Owners' Associations are recorded in the County Office of the Register of Deeds.

Certification of Final Plat

~~When the Planning Department has approved a Final Plat,~~

(H) **RecordationExpiration of Final Plats**

- 1) After approval by the Planning Director, a final plat must be recorded in the Office of the County Register of Deeds within ~~sixty (60)~~ days.
- 2) ~~No plat shall be regarded as finally approved until such plat has been recorded. If the a final plat (of all or part of the area shown on the approved Preliminary Plat) is not recorded within two (2) years after preliminary plat approval or if there is a lapse of more than two (2) years between the recordings of phases or sections, the preliminary plat must be resubmitted to the Technical Review Committee. Such resubmittal shall be in accordance with the requirements of this Ordinance~~

(I) **Permits**

Unless otherwise provided, the subdivider may obtain building and other permits required by this Ordinance upon recordation of the Final Plat.

(J) **No Permits on Lots Illegally Subdivided**

No building or sign permit will be issued on a lot created in violation of applicable subdivision regulations

30-4-16 Street and Alley Closings

All street and alley closings must be processed in accordance with Section 160A-299 of the North Carolina General Statutes and Section 6.61 of the City Charter.

30-4-17 Site Specific Development Plans

30-4-17.1 Purpose

The purpose of this Section is to implement the provisions of ~~NCGS Section~~ 160A-385.1 of the North Carolina General Statutes pursuant to which a for the establishment of a statutory zoning vested right ~~is established~~ upon the approval of a Site Specific Development Plan

30-4-17.2 Establishment of a Zoning Vested Right:

- (A) A zoning vested right ~~shall be~~is deemed established upon the valid approval, or conditional approval, by the Planning Board or City Council, as applicable, of a Site Specific Development Plan, ~~following notice and public hearing as specified herein.~~
- (B) In approving a Site Specific Development Plan, the Planning Board or City Council may impose ~~such~~ additional terms and conditions as ~~may be deemed~~ reasonably ~~be~~ necessary to protect the public health, safety, and welfare.
- (C) ~~Notwithstanding subsections 1) and 2), approval of a Site Specific Development Plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained. Site Specific Development Plans requiring a variance (see Section 30-4-11) prior to final approval may not receive zoning vested right status until the necessary variance has been obtained.~~

~~A Site Specific Development Plan shall be deemed approved upon the effective date of Planning Board or City Council action relating thereto.~~

- (D) The establishment of a zoning vested right ~~shall does~~ not preclude the application of overlay zoning that imposes additional requirements ~~but does not that do not~~ affect the allowable type or intensity of use, or other ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by

the City. ~~These may include, including,~~ but are not limited to, building, fire, plumbing, electrical, and mechanical codes. All otherwise applicable new or amended regulations ~~shall~~ become effective with respect to property that is subject to a Site Specific Development Plan upon the expiration or termination of the zoning vested right in accordance with this Section.

(E) A zoning vested right is not a personal right, but ~~shall attach~~ attaches to and runs with the applicable property. After approval of a Site Specific Development Plan, all successors to the original landowner ~~shall be~~ are entitled to exercise such right ~~while applicable as long as the zoning vested right remains valid.~~

(F) A zoning vested right only protects the landowner from zoning amendments that affect the allowable type or intensity of use of property. However, it ~~but~~ does not protect the landowner from zoning amendments that do not affect the allowable type or intensity of use of property or from nonzoning amendments to this Ordinance.

30-4-17.3 Approval Procedure:

(A) **Application:**

An application for Site Specific Development Plan approval ~~shall~~ must be processed in accordance with ~~the following procedures~~ this Section and ~~shall~~ must be considered by the Planning Board or City Council, as applicable, for the specific type of zoning or land use approval ~~for which application is made~~ being considered.

1) In order for a zoning vested right to be established upon approval of a Site Specific Development Plan, the applicant ~~shall~~ must indicate at the time of application, on a form provided by the Planning Department, that a zoning vested right is being sought.

2) An application ~~shall~~ must be accompanied by a Site Specific Development Plan. The Planning Director or Technical Review Committee, as specified in Section 30-4-13.3 ~~30-4-11.4 (B)~~ Approval Authority, ~~shall~~ must approve the Site Specific Development Plan for submission before it ~~is~~ may be considered by the Planning Board. The Planning Board ~~shall~~ must consider the Site Specific Development Plan at a regularly scheduled meeting not less than 24 days after the Planning ~~Department~~ Director or Technical Review Committee has approved it for submission.

3) Each site plan or other document ~~evidencing~~ referring to a Site Specific Development Plan ~~shall~~ must contain the following notation:

Approval of this plan establishes a zoning vested right under NCGS 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until _____.

~~The fee for a Site Specific Development Plan shall be in accordance with Section 30-3-19.4 (Development Plans, Final Plats, etc.). The application fee for a zoning vested right shall be an additional fee and shall be in accordance with Section 30-3-19.2 (Zoning Map Amendment or Special Use Permit). Fees shall be due and payable when the application is submitted.~~

(B) **Notification**

Notification must be provided in accordance with Section 30-4-1.4, Notice.

~~The landowner of the parcel for which the zoning vested right is requested and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing shall be mailed a notice of the public hearing. Notice shall be by first class mail to the last addresses listed on the county tax abstracts for such owners. Notice of such proposed action shall also be published in a newspaper of general circulation in the same manner as provided by NCGS 160A-364.~~

(C) Public Hearing

The Planning Board ~~shall~~must hold a public hearing on the application. The Planning ~~Director~~Director ~~shall~~must present the application to the Planning Board, together with the Planning ~~Director's~~Director's or Technical Review Committee's recommendations.

(D) Continuance

The Planning Board or City Council may continue a zoning vested right request for up to two months provided the reason for the continuance is stated in the motion to continue. Nothing in this Section ~~shall~~prohibits a continuance from being granted for a greater period of time provided it is mutually agreed upon by all parties concerned. Upon failure of the Planning Board to act upon a request following all proper continuances, or if no action is taken, the petitioner may take the zoning vested right application to the City Council without a recommendation from the Planning Board. Upon failure of the City Council to act on a request following all proper continuances, the request ~~shall be~~is deemed to be denied.

(E) Voting

~~A concurring affirmative vote~~Concurrence of by at least a majority of those members present and voting ~~shall be~~is required for the Planning Board to approve a zoning vested right application.

(F) Appeals

~~If a zoning vested right request has been denied or granted conditional approval, the applicant may appeal to the City Council in conformance with Section 30-4-1.6, Appeals to Boards and Commissions.~~

~~Any decision of the Planning Board may be appealed to the City Council. Such appeals shall be made within 15 days of the decision by filing a written notice of appeal with the City Clerk or Planning Department.~~

(G) Action by City Council

The City Council ~~shall~~may hear only ~~such~~as shall that applications ~~as shall that~~ have first been heard by the Planning Board as provided for ~~herein in this section~~herein in this section. Upon receipt of proper appeals ~~and such applications as may not have been acted upon by the Planning Board within the time specified in subsection 30-3-18.2 (C) 4 (Continuance)~~, the City Council ~~shall~~must hold a public hearing ~~on such applications~~. After completion of the public hearing, the City Council ~~shall~~must take such lawful action as it ~~may~~deems advisable.

(H) Subsequent Reviews and Approvals

Following approval or conditional approval of a Site Specific Development Plan, nothing in this Section ~~shall~~exempts such a plan from subsequent reviews and approvals to ensure compliance with the original approval, ~~provided that such reviews and approvals are not inconsistent with the original approval.~~

30-4-17.4 Changes or Amendments

~~No~~ All changes or amendments to an approved Site Specific Development Plan which affects the allowable type or intensity of use ~~shall must be resubmitted as a new application. be made except after notice and public hearing as provided for herein.~~

30-4-17.5 Duration

(A) A zoning right that has been vested as provided in this Section ~~shall~~ remains vested for a period of two years. This vesting period may not be extended by any changes or amendments to a Site Specific Development Plan.

(B) Upon issuance of a building permit, the expiration provisions of NCCGS Section 160A-418 of the North Carolina General Statutes and the revocation provisions of NCCGS Section 160A-422 of the North Carolina General Statutes ~~shall~~ apply, except that a building permit ~~shall will~~ not expire or be revoked because of the running of time while a zoning vested right under this Section ~~is outstanding~~ remains valid.

30-4-17.6 Termination

A zoning right that has been vested as provided in this Section ~~shall~~ terminates:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(B) With the written consent of the affected landowner;

(C) Upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the Site Specific Development Plan;

(D) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the City, together with interest ~~thereon~~ at the legal rate until paid. Compensation ~~shall will~~ not include any diminution in the value of the property which is caused by such action;

(E) Upon findings by the City Council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval of the Site Specific Development Plan; or

(F) Upon enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the Site Specific Development Plan, in which case the City Council may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

30-4-17.7 Violations

Any violation of a term or condition involved in the granting of a zoning vested right ~~shall will~~ be treated the same as a violation of this Ordinance and ~~shall be is~~ subject to the same remedies and penalties as any such violation. In addition, the Planning Board may, after public hearing, revoke any ~~such~~ zoning vested right for failure to abide by any such term or condition.

30-4-17.8 Voluntary Annexation

A petition for annexation filed with the City under ~~NCGS-Section~~ 160A-31 or ~~NCGS-160A-58.1 of the North Carolina General Statutes must~~ ~~shall~~ contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under ~~NCGS-Section~~ 160A-385.1 or ~~NCGS-Section~~ 153A-344.1 ~~of the North Carolina General Statutes~~. A statement that declares that no zoning vested right has been established under ~~NCGS-Section~~ 160A-385.1 or ~~NCGS-Section~~ 153A-344.1 ~~of the North Carolina General Statutes~~, or the failure to sign a statement declaring whether or not a zoning vested right has been established, ~~shall be~~ binding on the landowner and any ~~such potential~~ zoning vested right ~~shall will~~ be terminated.

30-4-17.9 Limitations

Nothing in this Section is intended or ~~shall may~~ be ~~deemed interpreted~~ to create any vested right other than those established pursuant to ~~NCGS-Section~~ 160A-385.1 ~~of the North Carolina General Statutes~~.

30-4-17.10 Repealer

In the event that ~~NCGS-Section~~ 160A-385.1 ~~of the North Carolina General Statutes~~ is repealed, this Section ~~shall be~~ deemed repealed and the provisions ~~hereof~~ no longer effective.

30-4-18 Permits and Certificates

30-4-18.1 General ~~Permit~~ Application Requirements

(A) Submission

All applications for permits ~~and certificates~~ under this Ordinance ~~shall must~~ be submitted by the owner of the property or his authorized agent, unless otherwise specified. The ~~Enforcement Officer~~ ~~appropriate department director (Planning, Engineering and Inspections, Water Resources or Transportation)~~ may require reasonable *proof of agency* from any person submitting an application as agent.

(B) Form of Submission

An application for any permit ~~or certificate~~ under this Ordinance ~~shall must~~ be submitted ~~in such form, number of copies, and format as required by the~~ ~~according to the requirements of the Enforcement Officer department~~ issuing ~~such the~~ permit ~~or certificate~~, together with ~~such any required~~ fees ~~as required~~.

(C) Waiver of Submission Requirements

The ~~Enforcement Officer~~ ~~appropriate director~~ may waive submission of certain required information when ~~such the~~ information is ~~not deemed unnecessary~~ to review the application. ~~However,~~ the ~~Enforcement Officer~~ ~~appropriate director~~ may refuse to process an incomplete application.

(D) Processing

All applications for permits ~~and certificates~~ ~~shall must~~ be submitted, reviewed, and processed in accordance with the requirements of this Ordinance.

(E) Exemptions

Certain activities are exempted from the requirement to obtain a permit or certificate. Other regulations contained in this Ordinance still apply to these activities, and other permits and/or certificates may be required. Whenever there is a

question concerning the need for permits or certificates, the appropriate ~~Enforcement Officer~~director should be contacted.

(F) Order of Issuance

1) Permits Issued Prior to Site Plan or Subdivision Preliminary Plat Approval

The ~~Enforcement Officer~~Engineering and Inspections Director may issue permits for temporary construction trailers, safety structures, and other customary construction structures prior to Site Plan or Subdivision Preliminary Plat approval.

2) Permits Issued After Site Plan or Subdivision Preliminary Plat Approval

The ~~Enforcement Officer~~Engineering and Inspections Director may issue permits for model homes and buildings in Group Developments (including townhouses and condominiums) after approval of Site Plans or Subdivision Preliminary Plats and street and utility construction plans (where required).

3) Permits and Plans in Airport Zoning AreaApproach and Clear Zone for the Piedmont Triad International Airport

Within the area covered by the ~~Airport Zoning Map~~Approach and Clear Zone ~~for of~~ the Piedmont Triad International Airport Authority, all permit applications for, and all site plans and other plans proposing, buildings, signs, and other above-ground structures ~~shall~~must be accompanied by written documentation from the Airport Authority as proof of compliance with airport approach and clear zoningregulations. No permit or plan approval ~~shall~~may be granted in the absence of such proof of compliance.

~~Permit/Certificate Compliance and Phasing~~

(G) Compliance with Permits and Certificates

The issuance of permits and certificates listed in ~~Section 30-3-3 (Permits) and Section 30-3-6 (Certificates)~~this section based upon approved plans or applications authorizes only the use, arrangement, construction, or development activity set forth in such approved plans or applications.

(H) Phasing of Projects

Projects may be developed in phases as long as compliance is achieved in each phase.

30-4-18.2 Grading Permit

(A) Applicability

1) Unless exempted below a grading permit must be obtained prior to commencement of any land-disturbing activity. The grading permit may be obtained through the procedures established by the Engineering and Inspections Director ~~Enforcement Officer~~ in accordance with applicable state law and the provisions of Section XX (Soil Erosion and Sedimentation Control). The grading permit must be posted in a prominent place on the site of the land-disturbing activity at all times it is in effect. A Certificate of Erosion Control Performance is required in accordance with Section 30-4-18.9~~XX~~.

2) Grading permits may be issued in advance of other permits and approvals ~~except tree disturbance permits (Section 30-4-18.3, below), except watershed control plans.~~

3) ~~Soil erosion and sedimentation control device(s) may be installed prior to approval of street and utility construction plans (see Section 30-4-14).~~

(B) Grading Permit Expiration and Renewal

1) Expiration

If the work authorized by a grading permit has not been completed within one year from the date of issuance, the permit ~~shall become is~~ null and void unless renewed. ~~pursuant to Section 30-3-5.2(B).~~

2) Renewal

The grading permit may be renewed for an additional 180 days by making a written request to the ~~Engineering and Inspections Director Enforcement Officer~~ justifying the need for the permit renewal. No fee ~~will be is~~ required for renewal of the grading permit but applicable surety ~~shall must~~ remain in effect.

(C) Exempted Activities

Grading permits are not required for any land-disturbing activity:

- 1)** for the purpose of fighting fires;
- 2)** for the stockpiling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage;

~~for areas that do not meet the criteria of Section XX (Plan and Permit Required);~~

- 3)** undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of any or all such animals; bees and aviary products; fur animals;
- 4)** undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the North Carolina Department of Environmental and Natural Resources (DENR). If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Ordinance ~~shall~~ apply to such activity and any related land-disturbing activity on the tract; and
- 5)** undertaken by persons as defined in ~~NCGS Section~~ 113A-52(8) ~~of the North Carolina General Statutes~~ who are otherwise regulated by the provisions of The Mining Act of 1971, ~~NCGS Sections~~ 74-46 through 74-68 ~~of the North Carolina General Statutes~~; and
- 6)** over which the State has exclusive regulatory jurisdiction as provided in ~~NCGS Section~~ 113A-56(a) ~~of the North Carolina General Statutes~~.

30-4-18.3 Tree Disturbance Permit

(A) Applicability

- 1) A tree disturbance permit is an official authorization that must be issued by the City ~~simultaneous to the issuance of a grading permit and~~ prior to any tree disturbing activities. Tree disturbing activities include the cutting and/or damage to the *critical root zone* of live trees four inches *DBH* or greater on sites not accompanied by a development plan, except as stated in Section 30-4-18.3(C) ~~30-5-4.1(A)~~, Exemptions.
- 2) Tree disturbance permits must be issued in advance of or simultaneous with all other permits and approvals including watershed development plans and grading permits.

(B) Expiration and Renewal

1) Expiration

If the work authorized by a tree disturbance permit has not been completed within one year from the date of issuance, the permit is null and void unless renewed ~~in conformance with Section XX, below.~~

2) Renewal

A tree disturbance permit may be renewed for an additional 180 days by written request to the Planning Director justifying the need for permit renewal. No fee is required for renewal of a tree disturbance permit.

(C) Exemptions

Tree disturbance permits are not required for any of the following land disturbing activities:

- 1) Single-family detached, two-family attached, or duplex dwellings on their own lots.
- 2) Multifamily developments containing fewer than nine dwelling units on a single zone lot.
- 3) Properties within or surrounded by the CBD, Central Business District.
- 4) Property lines abutting railroad rights-of-way and utility easements in excess of 60 feet in width.
- 5) Property lines abutting dedicated street right-of-way, which has remained unopened for a period of at least 15 years.
- 6) Tree removal on 3,000 square feet or less, after the ~~City Urban Forester or Enforcement Officer~~ Planning Director has determined that such removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the City or county.
- 7) Property covered by an active forestry management plan written by a North Carolina Registered Forester, provided documentation has been provided to the ~~City Urban Forester~~ Planning Director.

30-4-18.4 Building Permits

(A) Applicability

1) Unless exempted below, a building permit must be obtained prior to commencement of any construction activity. The building permit may be obtained through the ~~Enforcement Officer~~ Engineering and Inspections Director.

2) If required, well or septic tank permits, driveway permits, ~~water and sewer construction plans~~, site or plot plans, and watershed development plans ~~shall~~ must be issued or approved prior to issuance of building permits.

(B) Exemptions

Building permits are not required for the following facilities:

- 1)** Buildings owned or constructed by the ~~federal or~~ State government in accordance with Section 143-135.1 of the North Carolina General Statutes or by the federal government in accordance with federal law; and
- 2)** Types of buildings listed under Section 101.4 of the North Carolina Building Code, including:
 - a)** Equipment for storing, handling, transporting, and utilizing liquified petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers; and
 - b)** Equipment or facilities, other than buildings, of a public utility or of an electric or telephone membership corporation.

30-4-18.5 Sign Permits

(A) Applicability

Unless exempted below, a sign permit must be obtained prior to commencement of any construction activity. The sign permit may be obtained through the ~~Enforcement Officer~~ Planning Director.

(B) ~~Sign Permit~~ Expiration

If the work authorized by a sign permit has not been completed within ~~one hundred and eighty (180)~~ days from the date of issuance, the permit ~~shall become~~ is null and void.

(C) Exemptions

Sign permits are not required for signs exempted by Section XX (Sign Regulations).

30-4-18.6 Flood Plain Development Permit

Editor's note: Standards relating to Flood Damage Prevention and Floodplain Permits are currently being reviewed and revised by staff to conform to new federal regulations. The revised standards will be taken forth for adoption prior to the completion of the LDO. Once the new ordinance is adopted, it will be incorporated into the LDO.

~~Flood Plain Development Permit~~

~~A Flood Plain Development Permit must be obtained prior to the commencement of any development activities in a flood hazard area. Where otherwise required, a grading permit or building permit may serve as the flood plain development permit. The following information is required in the permit application:~~

~~Lowest Floor Elevation~~

~~Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.~~

~~Floodproofing Elevation~~

~~Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.~~

~~Base Flood Elevation Not Provided~~

~~Where base flood elevation data are not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade.~~

~~Watercourse Alteration or Relocation~~

~~Where any watercourse will be altered or relocated as a result of proposed development in a flood hazard area, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; a report certified by a registered professional engineer on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects on properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.~~

~~Certificate Required~~

~~A floor elevation or floodproofing certificate is required in accordance with Section XX (Certificate of Floor Elevation/Floodproofing). When a nonresidential structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria.~~

~~Temporary Event Permit~~

~~Applicability and Purpose~~

~~The purpose of this permit is to authorize a specific use for a defined period of time and to coordinate health, traffic, and other inspections necessary to the safe and healthful operation of the event.~~

~~A temporary event permit for nonpermanent facilities and activities lasting more than three days but fewer than 30 days must be obtained from the Enforcement Officer. Examples of activities that require a permit include, but are not limited to: carnivals and revivals.~~

~~Application~~

~~Application for a temporary event permit shall be made to the Enforcement Officer at least three (3) working days prior to the start of the event.~~

~~Permit Required~~

~~Requirements for Permit Issuance~~

~~A temporary event permit shall not be issued until evidence is shown that the following requirements have been or will be complied with:~~

~~Ample parking is provided for the event, in addition to required parking for any permanent use or uses located at the event site;~~

~~Written authorization from the property owner or his agent for the event to take place;~~

~~Any event held outside of a building and within five hundred (500) feet of any residence shall cease operation by 10:00 p.m. However, events celebrating national holidays beginning on the~~

~~eve of the national holiday, or weekend events beginning on Friday or Saturday evenings, and scheduled to be held in the downtown Business District shall cease operation by 1:00 a.m.; Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the event; and Licenses and/or permits required by other agencies have been obtained prior to the issuance of the temporary event permit.~~
Maximum Number of Permits
~~Three (3) temporary event permits may be issued for the same event on the same property in any one calendar year.~~
Permit Expiration
Certificates

30-4-18.7 **Final** Certificate of Compliance

(A) A final certificate of compliance ~~(occupancy)~~ authorizing occupancy of a structure or property shall must be issued by the Engineering and Inspections Director after completion of construction or alterations of such building, structure, or development activity after:

- 1) Inspection by the ~~Enforcement Officer~~ appropriate departments to determine compliance with all applicable provisions of this Ordinance; and
- 2) Compliance with all applicable provisions of related health, building, and fire codes.

(B) ~~No A final~~ certificate of compliance ~~shall must not~~ be issued for any building, structure, or development activity not in compliance with the provisions of this Ordinance.

30-4-18.8 **Temporary Certificate of Compliance**

(A) Applicability

A temporary certificate of compliance authorizing occupancy of a structure or property may be issued by the ~~Enforcement Officer~~ Engineering and Inspections Director in consultation with the appropriate director(s) prior to the completion of all construction, alterations, or changes if ~~such~~ occupancy ~~will does~~ not violate any health or safety considerations of applicable codes.

(B) Time PeriodDuration

A Temporary Certificate of Compliance may be issued for a time period the Engineering and Inspections Director in consultation with the appropriate director(s) ~~Enforcement Officer~~ deems appropriate to complete the work but not to exceed ~~90~~ 180 days.

(C) Surety

A surety satisfactory to the Engineering and Inspections Director in consultation with the appropriate director(s) ~~Enforcement Officer~~ may be required in an amount sufficient to ensure that the missing elements specified in the plan will be completed within the period of the temporary certificate. Such surety will be held and monitored by the appropriate department.

(D) **Work Incomplete**

If the work is not completed within the period of the temporary certificate of compliance, the ~~Enforcement Officer~~ Engineering and Inspections Director ~~shall~~ must notify the owner to cease use of the building and land immediately. The owner ~~shall~~ may not resume such use until a final certificate of compliance has been issued. Failure to cease use ~~shall~~ subjects the owner or operator to civil penalties and other enforcement actions available under this Ordinance.

30-4-18.9 Certificate of Erosion Control Performance

A certificate of erosion control performance ~~shall~~ may be issued after initial soil erosion and sedimentation control devices have been installed, inspected, and certified to be functioning properly in accordance with an approved grading plan. After issuance of a grading permit, grading on the site ~~shall be~~ is limited to that required to install soil erosion and sedimentation control devices until ~~the Certificate of Erosion Control Performance is approval by the~~ Engineering and Inspections Director is issued ~~obtained~~.

30-4-18.10 Certificate of Floor Elevation/Floodproofing

(A) **Applicability**

If property is located in a flood hazard area, a certificate of floor elevation or floodproofing ~~is required~~ must be submitted after the lowest floor is completed.

(B) **Filing**

Within 21 days of establishment of the lowest floor elevation or floodproofing by whatever construction means, ~~it shall be the duty of~~ the permit holder ~~to must~~ submit to the ~~Enforcement Officer~~ Water Resources Director a signed certificate of the as-built elevation of the lowest floor, the as-built floodproofed elevation, or the as-built elevation of the bottom of the horizontal structural members of the lowest floor (whichever is applicable), in relation to mean sea level. ~~Said This~~ certification ~~shall must~~ be signed and sealed by a ~~prepared by or under the direct supervision of a~~ registered land surveyor or professional engineer ~~and certified by same~~ licensed to practice within North Carolina. When floodproofing is utilized for a particular building, the certification must be signed and sealed by a ~~shall be prepared by or under direct supervision of a~~ professional engineer or architect ~~and certified by same~~ licensed to practice in North Carolina. Any work done within the ~~twenty-one~~ (21) day period and prior to submission of the certification ~~shall be~~ is at the permit holder's risk.

(C) **~~Enforcement Officer~~ Water Resources - Decision**

The ~~Enforcement Officer~~ Water Resources ~~must~~ shall review, ~~and may approve,~~ the floor elevation survey data submitted. Deficiencies ~~shall must~~ be corrected by the permit holder immediately and prior to further progressive work ~~permitted to proceed~~. Failure to submit the ~~survey required certificate(s)~~ or failure to make required corrections ~~shall be cause to issue~~ will result in the issuance of a stop work order for the project.

30-4-19 Appeal of Zoning Administrative Decision

30-4-19.1 Applicability

An appeal by any person aggrieved by a final zoning order, interpretation or decision of any administrative official authorized to make decisions in regard to the provisions of this

Ordinance may be taken to the Board of Adjustment, except as otherwise provided in this Ordinance.

30-4-19.2 Application Requirements

(A) An appeal of a zoning administrative decision may be initiated by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director.

(B) An application to appeal must be prepared in accordance with Section 30-4-1, Common Review Procedures, and submitted to the Planning Department.

(C) An application to appeal is considered filed when a complete application is delivered to the Planning Director. The date and time of filing must be entered on the notice.

30-4-19.3 Deadline for Submission of Application

An appeal of a zoning administrative decision must be filed with the Planning Director within 15 days of receipt of the decision unless a different time period is provided in this Ordinance.

30-4-19.4 Notice and Public Hearings

Once the application has been filed, the Planning Director must schedule a public hearing at the first available Board of Adjustment meeting and give public notice as forth in Section 30-4-1.4 (Notice).

30-4-19.5 Action by the Planning Director

The Planning Director must transmit to the Board of Adjustment all the notes, applications, and other records relating to the decision being appealed.

30-4-19.6 Action by Board of Adjustment

(A) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination being appealed and ~~shall~~ may make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment has all the powers of the official from whom the appeal is taken.

(B) If a motion to reverse or modify is not made, or fails to receive the affirmative vote of five members necessary for adoption, then appeal is deemed denied.

(C) Any motion to overturn or modify a decision must state the specific reasons or findings of fact that support the motion.

Oaths

~~The Chair of the Board, or any member temporarily acting as Chair, must administer oaths to witnesses in any matter coming before the Board.~~

Subpoena Powers

~~The Board may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board, willfully swears falsely is guilty of a misdemeanor.~~

1 **30-4-19.7 Effect of Appeal**

- 2 (A) An appeal stays all proceedings in furtherance of the action appealed, unless the
3 administrative official from whom the appeal is taken certifies to the Board of
4 Adjustment that, because of facts stated in the certificate, a stay would, in their
5 opinion, cause imminent peril to life or property or that because the violation is
6 transitory in nature a stay would seriously interfere with the enforcement of this
7 Ordinance.
- 8 (B) An appeal does not stop action lawfully approved (including construction activities
9 authorized by a building permit); only actions presumed in violation of this
10 Ordinance are stayed.

11 **30-4-19.8 Appeal of Board of Adjustment Decision**

12 Appeal of the Board of Adjustment action under this subsection may be taken by filing a
13 petition for certiorari with the Guilford County Superior Court.

14 **30-4-20 Appeal of Tree Preservation Administrative Decision**

15 **30-4-20.1 Applicability**

- 16 (A) An appeal by any person ~~Any party~~ aggrieved by a decision or an interpretation of
17 the ~~Enforcement Officer~~ Planning Director or administrative official ~~concerning~~
18 questions arising under the Development Ordinance upon which the Commission is
19 authorized to act may submit a petition authorized to make decisions in regards to
20 the tree preservation requirements may be taken to the Advisory Commission on
21 Trees.
- 22 (B) The Advisory Commission on Trees may not grant variances to the provisions
23 relating to the Tree Preservation requirements of ~~the Greensboro Development~~ this
24 Ordinance.

25 **30-4-20.2 Application Requirements**

- 26 (A) An application may be initiated by filing a written notice of appeal specifying the
27 grounds for the appeal with the Planning Director.
- 28 (B) An application to appeal must be prepared in accordance with Section 30-4-1,
29 Common Review Procedures, and submitted to the Planning Department.
- 30 (C) ~~Any item shall~~ An application must ~~be filed in the Planning Department, on forms~~
31 ~~provided published by the Planning Department, no later than 15 days prior to the~~
32 ~~next regularly scheduled meeting of the Commission.~~ The application must be
33 accompanied by drawings, descriptions, etc.. of the proposed project.
- 34 (D) A notice of appeal is considered filed when a complete application is delivered to
35 the Planning Director. The date and time of filing must be entered on the notice.

36 **30-4-20.3 Deadline for Submission of Application**

37 ~~Such petition shall~~ An appeal must ~~be filed in with the Planning Department Director~~ within
38 15 days from the date ~~such of the~~ decision or interpretation ~~was issued~~ being appealed.
39 ~~Unless such petition is filed, the decision or interpretation of the Enforcement Officer or~~
40 ~~administrative official shall be final.~~

1 **30-4-20.4 Notice and Public Hearings**

2 ~~Once the application has been filed, the Planning Director must schedule a public hearing at~~
3 ~~the first available Advisory Commission on Trees public meeting and give public notice as~~
4 ~~forth in Section 30-4-1.4 (Notice).~~

5 ~~Notice to Adjoining Property Owners. Notice by first class mail shall be given to all adjoining~~
6 ~~property owners. Notices shall be mailed at least ten (10) days prior to the meeting date.~~

7 **30-4-20.5 Action by the Planning Director**

8 ~~The Planning Director must transmit to the Advisory Committee on Trees all the notes,~~
9 ~~applications, and other records relating to the decision being appealed.~~

10 ~~An Agenda, a copy of the petition, and other such materials as may be appropriate shall be~~
11 ~~mailed to Commission members, applicants and other persons as the Enforcement Officer or~~
12 ~~administrative official may deem appropriate at least ten (10) days prior to the meeting.~~

13 **30-4-20.6 Action by the Advisory Commission on Trees**

14 ~~(A) A public hearing must be held prior to any decision on the application. All hearings~~
15 ~~shall be conducted in an informal manner in accordance with Robert's Rules of~~
16 ~~Order as revised unless otherwise provided or as waived by the Commission. All~~
17 ~~witnesses shall be sworn or affirmed and testimony shall be that which is relevant to~~
18 ~~the grounds for making an interpretation. Cross examination and rebuttal, both in~~
19 ~~an informal manner, shall be allowed.~~

20
21 ~~(B) The Advisory Commission on Trees may, in its discretion, view the premises and~~
22 ~~obtain additional facts concerning any petition application before arriving at a~~
23 ~~decision. All decisions of the Advisory Commission on Trees shall must be~~
24 ~~supported by appropriate findings of fact, and where necessary, shall may be~~
25 ~~accompanied by such conditions and/or recommendations as it may be determined~~
26 ~~to be reasonable under the circumstances.~~

27 ~~(C) Should an applicant fail to appear for the hearing of his petition at the time and~~
28 ~~place specified in the notice for such hearing and should such applicant fail to notify~~
29 ~~the Planning Department Director to or in some other manner request a~~
30 ~~continuance of the hearing of his/her petition, such petition shall may be dismissed~~
31 ~~unless the Advisory Commission on Trees votes to continue the matter until the~~
32 ~~next meeting.~~

33 ~~(D) In any case where the Advisory Commission on Trees finds that an interpretation of~~
34 ~~any provision upon which it is being asked to act may have broad application~~
35 ~~beyond any specific case that may be before the Commission the specific appeal~~
36 ~~being heard, the Advisory Commission on Trees may continue such case final action~~
37 ~~until the next regular meeting in order to receive additional evidence before arriving~~
38 ~~at an interpretation final action.~~

39 ~~(E) When acting in administrative review, the Advisory Commission on Trees shall be~~
40 ~~guided by the terms of Section 30-5-4 (Landscaping and Tree Preservation~~
41 ~~Ordinance) of the City of Greensboro Development Ordinance must consider the~~
42 ~~standards of Section XX, Landscaping and Tree Preservation Requirements. The~~
43 ~~Advisory Commission on Trees may reverse or affirm, in whole or in part, or may~~
44 ~~modify the order, requirement, decision, determination or interpretation appealed~~

from, and shall make any order, requirement, decision, determination, or interpretation that in the Commission's opinion ought to be made under the circumstances. To this end the Advisory Commission on Trees has all the powers of the official from whom the appeal is taken.

(F) Within 15 days of the Advisory Commission on Tree's original decision, an applicant may request a re-hearing on any matter upon the filing of a written request petition for a re-hearing. ~~A re-hearing may be allowed by the Commission if the Commission finds~~ The Advisory Commission on Trees may allow a re-hearing if it finds that that the applicant has presented new evidence ~~which that~~ was not available or able to be discovered at the time of the original hearing. ~~Such The~~ re-hearings will then be held at the next regularly scheduled meeting of the Advisory Commission on Trees. It is the policy of the Advisory Commission on Trees to require a substantial showing of new evidence prior to granting such a re-hearing. Only one re-hearing may be had by an applicant on the same question. A petition for a re-hearing does not extend the time for filing an appeal of the decision of the Commission.

(G) The final decision ~~of the Commission shall must~~ be recorded in the minutes of the Advisory Commission on Trees and signed by the Chairman. ~~The minutes shall record the reasons for the determination with a summary of the evidence introduced and findings of fact made by the Commission. The minutes shall also show what, if any conditions safeguards are imposed by the Commission in connection with its decision.~~

30-4-20.7 Appeals from Decisions by the Advisory Commission on Trees

Appeals from the decisions made by the Advisory Commission on Trees may be taken to the Board of Adjustment in conformance with Section 30-4-1.7, Appeals to Councils and Boards in the nature of certiorari.

30-4-20.8 Re-Appeal After a Denial by the Advisory Commission on Trees

If ~~an appeal petition~~ has been dismissed or denied for a particular piece of property, no ~~petition subsequent appeal~~ may be made for the same decision of the ~~Enforcement Officer/Planning Director or other official or Administrative Official for that property until one year has elapsed from the date of the previous decision for one year.~~ When the Advisory Commission on Trees has ruled adversely upon a petition that asks for an interpretation of ~~the Development this~~ Ordinance, no applicant may re-apply for the same interpretation unless the Advisory Commission on Trees finds, in its opinion, that different factual circumstances exist to warrant a re-petition.

Fees

~~The City Council establishes the following Schedule of Fees to partially defray the costs of administration, preparation of maps, advertisement and public notice, and performance of other services in regard to the items listed below. All fees are payable at the time of submission of the plan(s), petition, or application except construction and utility drawing fees, which are payable prior to approval of plans. No action shall be taken on proceedings before the Board of Adjustment, Planning Board, Zoning Commission, or Technical Review Committee until all applicable fees have been paid in full. There shall be no refund of a fee except as provided below. A fee shall not be required if an application is initiated by the City Council or any City boards, commissions, or agencies.~~
Board of Adjustment

1 Fees

2 ~~A fee according to the Schedule of Fees shall be due and payable when the Final Plat is~~
3 ~~submitted for approval.~~

4 Minor Modifications

5 Purpose

6 ~~Recognizing that it is sometimes possible to provide equal or better performance in furtherance~~
7 ~~of the purposes of this Ordinance through use of means other than those specified herein, the~~
8 ~~City Council finds it to be reasonably necessary and expedient that provisions be made for~~
9 ~~flexibility in administration of certain standards in this Ordinance.~~

10 Application

11 ~~Proposed modifications of certain standards as applied to particular developments are properly~~
12 ~~evaluated only in conjunction with technical review of a site plan, subdivision plat, or watershed~~
13 ~~control plat. The modifications being applied for shall be portrayed on such plans and shall be~~
14 ~~approved, approved with conditions, or denied along with the approval or denial of such plans.~~
15 ~~To obtain approval of a modification, the burden shall be upon the developer or property owner~~
16 ~~to demonstrate that the alternate standards portrayed on the plan will yield equal or better~~
17 ~~performance in furtherance of the purposes of this Ordinance.~~

18 Approval Body

19 ~~Recognizing that the evaluation of proposed alternate means intended to offer equal or better~~
20 ~~performance normally requires technical expertise and is best accomplished in conjunction with~~
21 ~~review of development plans, the City Council hereby designates the Technical Review~~
22 ~~Committee to be the appropriate planning agency to approve modifications, except as otherwise~~
23 ~~provided in Section 30-9-11.5 (Modification of General Watershed Area and Watershed Critical~~
24 ~~Area Standards) and in Section 9.11.6 (Minor Modifications of Conditions in Conditional Zoning~~
25 ~~Districts or Special Use Permits).~~

26 ~~Does the term “development plans” above refer to Subdivision Plans, or Site Plans, or what?~~
27 ~~Does this mean that the TRC can approve the specified modifications (enumerated below (A)~~
28 ~~through (P)).~~

29 Sections Affected

30 ~~The Technical Review Committee or, on appeal, the Planning Board or City Council may~~
31 ~~approve modifications to standards in the following articles, sections, and subsections:~~
32 ~~Section 30-4-6.2(C): Minimum Street and Interior Setbacks and Minimum Building Separation~~
33 ~~(in Table 30-4-6-4) and Open Space and/or Recreational Facilities (Subsection 30-4-6.2(C)1g));~~
34 ~~in developments where the yard space triangle requirements of Subsection 30-4-6.2(C)2a) apply~~
35 ~~Section 30-4-6.2(C)2): Additional Requirements (for multifamily developments)~~
36 ~~Section 30-4-6.4: Traditional Neighborhood District Dimensional Requirements (in Table 30-4-~~
37 ~~6-6)~~
38 ~~Section 30-5-2.54(B): General Requirements (for manufactured dwelling parks and recreational~~
39 ~~vehicle parks)~~
40 ~~Section 30-5-2.54(C): Manufactured Dwelling Park Requirements~~
41 ~~Section 30-5-2.54(D): Recreational Vehicle Park Regulations~~
42 ~~Section 30-5-4: Landscaping Requirements~~
43 ~~Section 30-6-9: Permanent Runoff Control Structures~~
44 ~~Section 30-6-10: Owners' Associations~~
45 ~~Section 30-6-13.1(B): Development Name~~
46 ~~Section 30-6-13.2: Lot Dimensions and Standards~~

~~Section 30-6-13.3: Streets~~

~~Section 30-6-13.4: Block Length~~

~~Section 30-6-13.5: Sidewalks (see most recent version of City of Greensboro Sidewalk Manual for guidance)~~

~~Section 30-6-13.6: Utilities~~

~~Section 30-6-13.7: Drainage~~

~~Modification of Water Supply Watershed Standards~~

~~Minor Watershed Modifications~~

~~Recognizing that the evaluation of requests for minor modifications of standards in Sections 30-7-1 (Water Supply Watershed Districts), 30-7-2 (General Watershed Areas), and 30-7-3 (Watershed Critical Areas) involves both technical evaluations (normally conducted by the Enforcement Officer and the Technical Review Committee) and evaluations made in light of both water supply watershed protection policies and fundamental fairness (normally conducted by the Planning Board and City Council), the City Council hereby designates the Planning Board to be the appropriate planning agency to approve minor watershed modifications in General Watershed Areas and the City Council to be the appropriate body to approve minor watershed modifications in Watershed Critical Areas. The approval procedure shall be as follows: In General Watershed Areas (GWA) the Technical Review Committee shall conduct a technical evaluation and report its findings to the Planning Board, which shall approve or deny the modification request.~~

~~In Watershed Critical Areas (WCA) the Technical Review Committee shall conduct a technical evaluation and report its findings to the Planning Board. The Planning Board shall make a recommendation to the City Council, which shall approve or deny the modification request.~~

~~Major Watershed Modifications~~

~~Recognizing that major watershed modifications are only approvable in unique circumstances on a case-by-case basis by the NC Environmental Management Commission (EMC) pursuant to Section .0104(e) of the EMC Rules, the City Council hereby designates the EMC as the appropriate agency to approve major watershed modifications, pursuant to the EMC Rules. The approval procedures shall be the same as in subsections (A) 1) and (A) 2) above, except that the Planning Board and City Council shall make recommendations to the EMC, which shall approve or deny major watershed modification requests.~~

~~Notification of Other Affected Jurisdictions~~

~~For each request for a minor or major watershed modification, the Technical Review Committee shall notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption. A comment period of at least fourteen (14) days shall be allowed before the Planning Board hearing.~~

~~Annual Report~~

~~A report containing a description of each project receiving a watershed modification and the reasons for approval of the modification shall be sent to the EMC on an annual basis by January 1.~~

~~Minor Modifications of Conditions in Conditional Zoning Districts or Special Use Permits.~~

~~Recognizing that the evaluation of requests for minor modifications of conditions in Conditional Zoning Districts and Special Use Permits involves both technical evaluations and evaluations made in light of policies underlying the conditions, the City Council hereby designates the Planning Board to be the appropriate planning agency to approve such minor modifications, after receipt of a report from the Technical Review Committee.~~

1 ~~Why is the Planning Board approving these changes when they aren't involved in the original~~
2 ~~process?~~

3 ~~Grounds for Modification~~

4 ~~Equal or Better Performance~~

5 ~~A finding by the Technical Review Committee that equal or better performance in furtherance of~~
6 ~~the purposes of this Ordinance will result from the alternate standards portrayed on the plan~~
7 ~~constitutes grounds for approval of a modification. The evaluation of performance shall be made~~
8 ~~with regard to one purpose in Section 30-1-3 (Purpose) if only one purpose is affected. If~~
9 ~~performance with regard to more than one purpose in Section 30-1-3 (Purpose) is affected, the~~
10 ~~evaluation shall be made with regard to overall performance in furtherance of the purposes of~~
11 ~~this Ordinance. If an alternate standard as portrayed on the plan reduces performance with regard~~
12 ~~to one or more Ordinance purposes but produces a concomitant and counterbalancing superiority~~
13 ~~of performance with regard to one or more other purposes, a modification may be approved.~~

14 ~~Physical Constraints~~

15 ~~A finding by the Technical Review Committee that the size, topography, or existing~~
16 ~~development of the property or of adjoining areas prevents conformance with a standard~~
17 ~~constitutes grounds for approval of a modification.~~

18 ~~Other Constraints~~

19 ~~A finding by the Technical Review Committee that a federal, State, or local law or regulation~~
20 ~~prevents conformance with a standard constitutes grounds for approval of a modification.~~

21 ~~Grounds for Major Watershed Modifications~~

22 ~~Approvals of major watershed modifications, but not other modifications, shall be based upon~~
23 ~~the following three findings:~~

24 ~~There are practical difficulties or unnecessary hardships in the way of carrying out the strict~~
25 ~~letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary~~
26 ~~hardships, the approval body must find that the five following conditions exist:~~

27 ~~If he complies with the provisions of the Ordinance, the applicant can secure no reasonable~~
28 ~~return from, nor make reasonable use of, his property. Merely proving that the modification~~
29 ~~would permit a greater profit to be made from the property will not be considered adequate to~~
30 ~~justify the granting of a modification. Moreover, the approval body shall consider whether the~~
31 ~~modification is the minimum possible deviation from the terms of the Ordinance that will make~~
32 ~~possible the reasonable use of his property.~~

33 ~~The hardship results from the application of the Ordinance to the property rather than from other~~
34 ~~factors such as deed restrictions or other hardship.~~

35 ~~The hardship is due to the physical nature of the applicant's property, such as its size, shape, or~~
36 ~~topography, which is different from that of neighboring property.~~

37 ~~The hardship is not the result of the actions of an applicant who knowingly or unknowingly~~
38 ~~violates the Ordinance, or who purchases the property after the effective date of the Ordinance,~~
39 ~~and then applies for relief.~~

40 ~~The hardship is peculiar to the applicant's property, rather than the result of conditions that are~~
41 ~~widespread. If other properties are equally subject to the hardship created in the restriction, then~~
42 ~~granting a modification would be a special privilege denied to others, and would not promote~~
43 ~~equal justice.~~

44 ~~The modification is in harmony with the general purpose and intent of the Ordinance and~~
45 ~~preserves its spirit.~~

~~In the granting of the modification, the public safety and welfare have been assured and substantial justice has been done. The approval body shall not grant a modification if it finds that doing so would in any respect impair the public health, safety, or general welfare.~~

~~Conditions~~

~~In approving a modification, the Technical Review Committee, Planning Board, City Council, or Environmental Management Commission (EMC) may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Violations of conditions and safeguards which are part of the terms of modification approval shall be deemed a violation of this Ordinance.~~

~~Appeals~~

~~Appeals may be made pursuant to Section 30-3-11.4(C) (Action by Technical Review Committee), Section 30-3-11.4(D) (Action by Planning Board), and Section 30-6-7.7 (Appeals). Appeals of decisions on major watershed modifications must be made on certiorari to the Guilford County Superior Court.~~

~~Duration~~

~~An approved modification is part of an approved plan and shall have the same duration as the plan approval.~~

~~Appeals~~

~~General~~

~~Unless otherwise provided, appeals of decisions, actions, orders, or interpretations of this Ordinance shall be:~~

~~in writing;~~

~~filed within fifteen (15) days of the final decision;~~

~~filed with the Secretary of the Board or Commission to which the appeal is taken; and~~

~~in the nature of de novo review.~~

~~Technical Review Committee~~

~~Appeals from a decision of the Planning Department with regard to minor subdivisions are to the Technical Review Committee provided the appeal is made by the applicant within thirty (30) days of the decision.~~

~~Appeals from decisions of the Enforcement Officer regarding alternate methods of compliance for landscaping plans (Section 30-5-4.6) and Watershed Control Plans (Section 30-7-2.2) are to the Technical Review Committee as a request for modification (Refer to Section 30-9-11).~~

~~Planning Board~~

~~Appeals from a decision of the Technical Review Committee concerning modification of specific standards within sections of Article IV, Article VI, and Article VII of this Ordinance are to the Planning Board. The specific sections are listed in Section 30-9-11.4 (Sections Affected) and Section 30-9-11.5 (Modification of Water Supply Watershed Standards).~~

~~Appeals from any decision or action of the Technical Review Committee regarding plans, subdivisions, or group developments are also to the Planning Board, unless otherwise provided.~~

~~Appeals from a decision of the Enforcement Officer with regard to a soil erosion and sedimentation control plan are to the Planning Board. (Refer to Section 30-9-12.7 (Soil Erosion and Sedimentation Control))~~

~~Board of Adjustment~~

1 ~~Unless otherwise provided, the decision of an Enforcement Officer with regard to an~~
2 ~~interpretation of a zoning provision of this Ordinance, of a floodway or floodway fringe~~
3 ~~boundary, or of a zoning boundary may be appealed to the Board of Adjustment.~~

4 ~~Appeal from a decision of the Historic Preservation Commission with regard to a Certificate of~~
5 ~~Appropriateness shall be to the Board of Adjustment in the nature of certiorari.~~
6 ~~City Council~~

7 ~~Appeals from a decision of the Planning Board or Zoning Commission with regard to zoning~~
8 ~~map amendments, Conditional Zoning Districts, Special Use Permits, watershed modifications,~~
9 ~~subdivisions, or site plans shall be to the City Council.~~

10 ~~Judicial~~

11 ~~Except as otherwise provided, an appeal from a decision of the City Council or the Board of~~
12 ~~Adjustment is to a court of competent jurisdiction.~~

13 ~~Soil Erosion and Sedimentation Control~~

14 ~~Procedure~~

15 ~~Except as provided in Subsection 30-9-12.7(B) of this Ordinance, the appeal of a disapproval or~~
16 ~~conditional approval of a soil erosion and sedimentation control plan shall be governed by the~~
17 ~~following provisions:~~

18 ~~Written Appeal~~

19 ~~The disapproval or conditional approval of any proposed soil erosion and sedimentation control~~
20 ~~plan by the Enforcement Officer shall entitle the person submitting the plan to a public hearing if~~
21 ~~such person submits written demand for a hearing within fifteen (15) days after receipt of written~~
22 ~~notice of disapproval or conditional approval.~~

23 ~~Timing~~

24 ~~A hearing held pursuant to this section shall be conducted by the Planning Board within thirty~~
25 ~~(30) days or at the next scheduled meeting after the date of the appeal or request for a hearing.~~

26 ~~Recommendation~~

27 ~~The Planning Board shall conduct a hearing and shall make a recommendation to the City~~
28 ~~Council within thirty (30) days after the date of the hearing on a soil erosion and sedimentation~~
29 ~~control plan.~~

30 ~~Public Hearing~~

31 ~~The City Council will render its final decision on a soil erosion and sedimentation control plan~~
32 ~~upon which a hearing is requested within fifteen (15) days after receipt of the Planning Board~~
33 ~~recommendation.~~

34 ~~Appeal of City Council Denial~~

35 ~~If the City Council upholds the disapproval or conditional approval of a proposed soil erosion~~
36 ~~and sedimentation control plan following the hearing, the person submitting the plan shall then~~
37 ~~be entitled to appeal the City Council's decision to the North Carolina Sedimentation Control~~
38 ~~Commission as provided in NCGS 113A-61(c) and Title 15 NCAC 4B.0018(b).~~

39 ~~Direct Appeal to Sedimentation Control Commission~~

40 ~~In the event that a soil erosion and sedimentation control plan is disapproved pursuant to Section~~
41 ~~30-7-4.14(H) (Grounds for Plan Disapproval) of this Ordinance, the City shall notify the Director~~
42 ~~of the Division of Land Resources of such disapproval within ten (10) days. The City shall~~
43 ~~advise the applicant and the Director in writing as to the specific reasons that the plan was~~
44 ~~disapproved. The applicant may appeal the City's disapproval of the plan pursuant to Section 30-~~
45 ~~7-4.14(H) of this Ordinance directly to the North Carolina Sedimentation Control Commission.~~

46 Appeals

1 Appeals To The Board of Adjustment

2 Appeal Eligibility

3 ~~Any person aggrieved or any officer, department, board, or bureau of the City may make an~~
4 ~~appeal.~~

5 ~~Appeals shall be made within the time prescribed by the Board of Adjustment by filing, with the~~
6 ~~officer from whom the appeal is taken and with the Board of Adjustment, a notice of appeal~~
7 ~~specifying the grounds thereof.~~

8 ~~The officer from whom the appeal is taken shall forthwith transmit to the Board all papers~~
9 ~~constituting the record upon which the action appealed from was taken.~~

10 Effect of Appeal

11 ~~the danger that materials may be swept onto other lands to the injury of others;~~

12 ~~the danger to life and property due to flooding or erosion damage;~~

13 ~~the susceptibility of the proposed facility and its contents to flood damage and the effect of such~~
14 ~~damage on the individual owner;~~

15 ~~the importance of the services provided by the proposed facility to the community;~~

16 ~~the necessity to the facility of a waterfront location, where applicable;~~

17 ~~the availability of alternative locations, not subject to flooding or erosion damage, for the~~
18 ~~proposed use;~~

19 ~~the compatibility of the proposed use with existing and anticipated development;~~

20 ~~the relationship of the proposed use to the comprehensive plan and flood plain management~~
21 ~~program for that area;~~

22 ~~the safety of access to the property in times of flood for ordinary and emergency vehicles;~~

23 ~~the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters,~~
24 ~~and the effects of wave action, if applicable, expected at the site;~~

25 ~~the costs of providing governmental services during and after flood conditions including~~
26 ~~maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water~~
27 ~~systems, and streets and bridges; and~~

28 ~~the effect that granting the appeal or variance would have on the City's eligibility for Federal~~
29 ~~Flood Insurance.~~

Article 5. Enforcement

30-5-1	Violations	5-1
30-5-2	Inspections and Investigations.....	5-1
30-5-3	Enforcement Procedure.....	5-3
30-5-4	Remedies.....	5-4
30-5-5	Assessment of Civil Penalties	5-5

30-5-1 Violations

Any of the following ~~shall be a~~are violations of this Ordinance and ~~shall be~~are subject to the ~~enforcement~~ remedies and penalties provided by this Article and by State law.

30-5-1.1 Development without Permit

To engage in any development, use, construction, remodeling, or other activity of any nature ~~upon land or improvements thereon subject to the jurisdiction of~~ this Ordinance without ~~obtaining~~ all ~~required~~ permits, certificates, or other forms of authorization ~~required by as set forth in~~ this Ordinance.

30-5-1.2 Development Inconsistent With Permit

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

30-5-1.3 Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the City Council or its agent boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

30-5-1.4 Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred ~~by~~ this Ordinance~~thereby~~.

30-5-1.5 Subdivide in Violation

To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the County Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this Ordinance.

30-5-1.6 Continue a Violation

To continue any of the above violations is a separate and distinct offense.

30-5-2 Inspections and Investigations

30-5-2.1 Inspections

~~The Enforcement Officer~~Any City employee charged with enforcement of the provisions of this Ordinance is ~~shall have authorized the right~~ upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the city at any reasonable

hour for the purposes of inspection, determination of plan compliance, or other enforcement action. No person may obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.

30-5-2.2 Investigations

~~The Enforcement Officer~~ Any City employee charged with enforcement of the provisions of this Ordinance is ~~shall have the power authorized~~ to conduct ~~such~~ investigations ~~as he deemed may reasonably deem~~ necessary to carry out ~~his the~~ duties ~~as~~ prescribed in this Ordinance and, for this purpose, to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

30-5-2.3 Supporting Documentation

~~The Enforcement Officer~~ Any City employee charged with enforcement of the provisions of this Ordinance is ~~shall have authorized to the power to~~ require written statements, certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

~~Soil Erosion and Sedimentation Control~~

~~Inspections~~

~~Agents, officials, or other qualified persons authorized by the city will periodically inspect the sites of land disturbing activity to determine compliance with the Act, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, and to determine whether the activity is being conducted in accordance with an approved plan and whether the measures required in the plan are effective in controlling erosion and sediment resulting from land disturbing activity. Notice of the right to inspect shall be included in the notification of plan approval.~~

~~Investigations~~

~~The city shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing activity.~~

~~Supporting Documentation~~

~~The city shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land disturbing activity.~~

~~Property Owner Responsible~~

~~No person shall refuse entry or access to any authorized representative or agent of the city who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.~~

30-5-2.4 Failure to Comply

Failure of ~~the Enforcement Officer~~ any city employee charged with enforcement of the provisions of this Ordinance to observe or recognize conditions ~~which that~~ violate ~~the intent and purpose of~~ this Ordinance, or to deny the issuance of a grading permit, ~~shall does~~ not relieve the property owner from responsibility for the ~~resulting~~ conditions or damages ~~resulting therefrom and shall and does~~ not result in the city, its officers, or agents being responsible for ~~resulting~~ conditions or damages ~~resulting therefrom~~.

30-5-3 Enforcement Procedure

When ~~the Enforcement Officer or~~ any city employee charged with enforcement of the provisions of this Ordinance ~~his agent~~ finds a violation of this Ordinance, ~~it shall be his duty to~~ he must notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner ~~or~~ and occupant ~~shall must immediately~~ remedy the violation immediately.

30-5-3.1 Notice of Violation

If the owner or occupant of the land, building, structure, sign, or use in violation fails to take prompt corrective action, any city employee charged with enforcement of the provisions of this Ordinance ~~the Enforcement Officer~~ shall must give the owner or occupant written notice (by certified or registered mail to the violator's ~~his~~ last known address, by personal service, or by posting notice conspicuously on the property) of the following:

- (A) that the land, building, structure, sign, or use is in violation of this Ordinance;
- (B) the nature of the violation, and citation of the section of this Ordinance violated;
and
- (C) the measures necessary to remedy the violation and the time period in which the violation must be corrected, if applicable; and
- (D) that penalties or remedies may be assessed.

30-5-3.2 Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of any city employee charged with enforcement of the provisions of this Ordinance ~~the Enforcement Officer~~ to the Board of Adjustment (unless this Ordinance has specified expressly states that another board shall is responsible for ~~hearing~~ the appeal ~~of the violation~~) within ~~fifteen~~ (15) days following the date of the Notice of Violation. The Board of Adjustment, or other designated board, ~~shall must~~ hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation. In the absence of an appeal, the decision of ~~the any city employee charged with enforcement of the provisions of this Ordinance~~ Enforcement Officer shall be final.

30-5-3.3 Notice of Decision

The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested. Otherwise, notice is presumed to be given at the day and time of the hearing.

30-5-3.4 Failure to Comply with ~~Order~~Notice

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an upheld appeal, the owner or occupant ~~shall be is~~ subject to such remedies and penalties as may be provided for by State law or by Section -30-5-4.3, Available Remedies ~~30-8-4 (Remedies)~~.

30-5-3.5 Additional Enforcement Procedures

Departments may publish and amend from time to time enforcement procedure manuals that provide more detailed guidance on enforcement matters.

30-5-4 Remedies

30-5-4.1 Cumulative

All ~~such available~~ remedies ~~for violations of~~ this Ordinance ~~provided herein shall be~~ are cumulative. To the extent that North Carolina law may limit the availability of a particular remedy ~~authorized by~~ this Ordinance ~~set forth herein~~ for a certain violation ~~or a part thereof~~, such remedy ~~shall~~ remain available for other violations or other parts of the same violation.

30-5-4.2 Repeat Violations

If an owner or occupant repeats the same violation within a 5-year period from the date of the initial violation, ~~that repeat violation it shall will~~ be considered to be a continuation of the initial violation and ~~shall be is~~ subject to additional penalties and remedies.

30-5-4.3 Available Remedies

Any or all of the following ~~procedures~~ may be used to enforce the provisions of this Ordinance.

(A) Injunction

Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant ~~hereto to~~ this Ordinance may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law. The institution of an action for injunctive relief under this section does not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

(B) Civil Penalties

Any person who violates any provision of this Ordinance ~~shall may~~ be subject to the assessment of a civil penalty in accordance with Section 30-5-5, Assessment of Civil Penalties ~~under the procedures provided in Section 30-8-5 (Civil Penalties Assessments and Procedures)~~.

(C) Denial of Permit or Certificate

~~The Any city employee charged with enforcement of the provisions of this Ordinance Enforcement Officer shall may~~ withhold or deny any permit, certificate, or other authorization on any land, building, structure, sign, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

(D) Conditional Permit or Temporary Certificate

~~Any city employee charged with enforcement of the provisions of this Ordinance The Enforcement Officer~~ may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

(E) Stop Work Orders

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the ~~Enforcement Officer Engineering and Inspections Director~~ may order the work to be immediately stopped. The stop work order ~~shall must~~ be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific

work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action ~~shall~~must be in accordance with NCGS Section 160A-421 of the North Carolina General Statutes or the North Carolina Building Code.

(F) Revocation of Permits or Certificates

The any city employee charged with enforcement of the provisions of this Ordinance, in consultation with the appropriate department director, Enforcement Officer may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates ~~shall~~may be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

(G) Criminal Penalties

- 1) Any violation of this Ordinance ~~shall~~may be enforced as a misdemeanor or infraction as provided by NCGS Sections 14-4 and 113A-64 of the North Carolina General Statutes, subject to a maximum fine of \$5,000.
- 2) Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, ~~shall be~~is guilty of a misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or both.

(H) State and Common Law Remedies

In addition to other enforcement provisions contained in this article, the City Council may exercise any and all enforcement powers granted to it by state law or common law.

(I) Previous Enforcement

Nothing in this Ordinance ~~shall~~ prohibit the continuation of previous enforcement actions.

30-5-5 Assessment of Civil Penalties

30-5-5.1 Responsible Parties

Any person who violates any provision of this Ordinance, including the owner and/or occupant (when permissible) of any land, building, structure, sign, use of land, or part thereof, and any architect, builder, contractor, agent, or other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided herein this Ordinance.

30-5-5.2 Notice

No civil penalties shall ~~may not~~ be assessed until the person alleged to be in violation has been notified in accordance with Section 30-5-3.1, ~~30-8-3.1 (Notice of Violation)~~. If after

receiving a notice of violation under Section 30-5-3.1~~30-8-3.1~~, the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the same manner as ~~of~~ a Notice of Violation. The citation shall state the nature of the violation, ~~shall state~~ the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within ~~fifteen~~ (15) days of the date of the citation.

30-5-5.3 Continuing Violation

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

30-5-5.4 Penalties

(A) General

1) The assessment of civil penalties in accordance with this Ordinance herein is not intended to be an exercise of powers delegated to other agencies or entities created by the General Assembly to regulate the proscribed conduct.

2) Any person who violates any provision of this Ordinance ~~shall will~~ be subject to assessment of a civil penalty in the amount of \$50.00 for the first violation, \$100.00 for the second violation, \$200.00 for the third violation, and \$500.00 for the fourth and each succeeding violation.

(B) Soil Erosion and Sedimentation Control

Civil penalties for specific violations of Section XX (Soil Erosion and Sedimentation Control) ~~shall be~~ assessed as follows:

1) Grading Without Permit

\$500 per day for failure to secure a valid grading permit prior to conducting a land-disturbing activity for which a soil erosion and sedimentation control plan is required.

2) Failure to Protect

\$500 - \$1,000 per day for failure to take all reasonable measures to protect public property or private property, including lakes and/or natural watercourses, from damage caused by land-disturbing activities.

3) Failure to Follow Plan

\$300 - \$500 per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved soil erosion and sedimentation control plan.

4) Failure to Install Devices

\$500 - \$1,000 per day for failure, when more than one acre is disturbed (\$250 per day when one acre or less is disturbed), to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract and prevent off-site sedimentation.

5) Failure to Maintain Measures

\$300 - \$500 per day for failure to maintain satisfactory erosion and sedimentation control measures, structures and/or devices on the site that are

designed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm.

6) Failure to Maintain Temporary Measures

\$250 - \$500 per day for failure to maintain temporary erosion and sedimentation control measures and facilities during the development of the site.

7) Failure to Maintain Slopes

\$250 - \$500 per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion and sedimentation control devices or structures.

8) Failure to Cover Slopes

\$250 - \$500 per day for failure, within 15 days of completion of any phase of grading, to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices, or structures sufficient to restrain erosion.

9) Failure to Plant Cover

\$250 - \$500 per day for failure on a tract when more than one contiguous acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within 15 working days or 30 calendar days, whichever is the shorter, following completion of construction or development.

10) Failure to Revise Plan

\$250 per day for failure to file an acceptable, revised soil erosion and sedimentation control plan after being notified of the need to do so.

11) Failure to Maintain Buffer

\$500 - \$1,000 per day for failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the ~~twenty-five percent~~ (25%) of the buffer zone nearest the land-disturbing activity.

12) Interference with Official Duties

\$500 per day for obstructing, hampering, or interfering with any authorized agent of the city or the North Carolina Sedimentation Control Commission while in the process of carrying out his or her official duties.

13) Soil Erosion and Sedimentation Control Plan

Any person who fails to submit a soil erosion and sedimentation control plan as required by this Ordinance ~~shall~~ will be subject to a single, noncontinuing civil penalty of not more than \$1,000. Any person may be subject to additional civil penalties for violation of any other provision of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance.

14) One Time Civil Penalty

Any person who violates any provision of the Section XX, Soil Erosion and Sedimentation Control, the Act, or rule or order adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity (for which a sedimentation and erosion control plan is required) not in accordance with the ~~terms, conditions, and provisions of an~~ approved soil erosion and

sedimentation control plan, may be subject to a single, non-continuing civil penalty of up to \$5,000, ~~for the day the violation is first detected.~~ Any person may be subject to additional civil penalties for violation of any other provision of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the City for costs associated with the City's program to monitor, control, prosecute, cure and/or correct the violation. As such, the penalty amount is presumed to provide sufficient restoration to the City for its costs.

(C) Prevention of Demolition by Neglect Penalties

Civil Penalty

1) Notice

The Engineering and Inspections Director must provide written notice in accordance with Section 30-5-5.2, Notice.

~~No civil penalty may be levied unless and until the Engineering and Inspections Department has delivered a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation. The notice must indicate:
The nature of the violation and order corrective action.
The time period when corrective measures must be completed.
That failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action.~~

2) Penalty

\$100 per day of continuing violation for failure to perform corrective action.

~~If after the allotted time period has expired and after the hearing of an appeal if any by the Board of Adjustment, corrective action has not been completed, a civil penalty may be assessed in the amount of \$100 per day of continuing violation.~~

3) Effect Repairs

- a) If the owner fails to comply with an order to repair, the City may cause ~~such the~~ building to be repaired. The City may not cause the repair of the property in question until the ~~approval authority~~ Historic Preservation Commission or Guilford County Joint Historic Properties Commission has, by resolution or other decree, ordered the City to proceed to make the necessary repairs to property which have been found to be in need of correction of deterioration to prevent demolition by neglect as set forth in this Section.
- b) The amount of the cost of such repairs, alterations and improvements will be a lien against the real property upon which such cost was incurred; said lien must be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments for local improvements.
- c) The property owner has the option of paying for the cost of such repairs, alterations and improvements either in cash or in five equal annual installments with such installments bearing interest at the rate of six

percent per ~~annum-year~~ from the date of the filing of the lien. If any cost is not paid in cash, the first installment, with interest, is due 30 days after the date of the filing of the lien, and one subsequent installment and interest will be due on the same day of the month in each successive year until the cost is paid in full.

- d) If any installment with interest is not paid when due, it ~~shall-will~~ be subject to the same penalties as are now prescribed by law for unpaid assessments, in addition to the interest herein provided for, and, in addition, all of the installments remaining unpaid ~~shall-will~~ at once become due and payable and the property may be sold in the same manner as now prescribed by law for the sale of land for unpaid taxes. The whole cost of such repairs, alterations and improvements may be paid at the time of paying any installment by payment of the principal and all interest accrued to that date.

(D) Tree Disturbance Penalties

1) Tree Disturbance Prior To Permit Approval and Where no Tree Survey Documentation Exists

The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit or ~~TRC-Technical Review Committee~~ approval ~~shall~~ will be a civil penalty of \$500. Additional penalties may apply if the minimum tree preservation requirement for the site has been disturbed, which will be a penalty of \$10,000ten thousand (10,000) dollars per acre of the minimum preservation requirement disturbed or fraction thereof up to a maximum of \$25,000. (i.e., Example: The civil penalty for a site that has cleared-of 0.35 acres of the minimum tree conservation area that is cleared prior to TRC-Technical Review Committee approval or prior to the issuance of a tree disturbance permit is \$3500.)

2) Removal or Damage to Individual Trees after Permit Approval Where Tree Survey Documentation Exists

The penalty for removal of or damage to the Critical Root Zone of a protected tree(s) after the issuance of a Tree Disturbance Permit, or ~~TRC-Technical Review Committee~~ approval, within an approved ~~TCA-tree conservation area~~ without approval by the ~~City Urban Forester~~Planning Director ~~shall-will~~ result in a civil penalty as determined by the ~~City Urban Forester~~Planning Director, up to the amount shown in the chart below, in addition to the replacement of those trees with quality specimens native to North Carolina.

Table 5-1 Tree Disturbance Penalties

DBH of Removed or Damaged Tree	Maximum Civil Penalty	Reforestation (4 inch caliper)
4-20.9 inches	\$400	1 tree
21-35.9 inches	\$2,400	3 trees
36+ inches	\$4,000	5 trees

3) Removal of an Area of Trees after Permit Approval Where no Tree Survey Documentation Exists

The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a Tree Disturbance Permit or ~~TRC-Technical Review Committee~~ approval, within an approved ~~TCA-Tree~~

Conservation Area without approval of the ~~City Urban Forester~~Planning Director ~~shall will~~ result in a civil penalty of ~~ten thousand (\$10,000) dollars~~ per acre or fraction thereof (but not less than ~~one thousand (\$1,000) dollars and up to a maximum of \$25,000~~. Such areas ~~shall must~~ be reforested at a rate of one two-inch caliper canopy tree per 200 square feet.

4) Failure to Install or Maintain Tree Protection Devices after Permit Approval

~~There shall be a~~ civil penalty of \$500 dollars per day will be assessed for failure to install or maintain approved tree protection measures sufficient to protect the ~~TCA Tree Conservation Area at the point when major earthmoving commences. The assessment of penalties begins on beginning with~~ the date the citation is issued and ~~ending ends~~ when the site is in compliance. In addition, the property owner may be subject to any penalties for damage under ~~section paragraph 2) or 3)~~ above.

~~Failure to comply with the Landscape provisions~~

~~There shall be a penalty of five hundred (500) dollars per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.~~

30-5-5.5 Demand for Payment

(A) Notice

~~A city employee charged with enforcement of the provisions of this Ordinance. The Enforcement Officer shall will~~ determine the amount of civil penalty to be assessed and make written demand for payment of penalties upon the owner or ~~the~~ person in violation. This written demand must include and shall set forth in detail a description of the violation for which the civil penalties ~~iesy has~~ have been imposed. Separate notices of violation must be provided for the first, second, third and fourth violations. After notice and demand for payment for the fourth violation, penalties may be assessed and ~~accure~~accrue on a daily ~~baisis~~basis without any further notice to the property owner.

(B) Adjustment

Any city employee charged with enforcement of the provisions of this Ordinance may, in consultation with the appropriate director, reduce the penalties assessed in this Ordinance, based on criteria set forth in departmental guidelines. Modification of penalties is at the sole discretion of the department.

30-5-5.6 Nonpayment

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel to institute a civil action for recovery of the civil penalty. Moreover, if the civil penalty is not paid within the time prescribed, ~~any city employee charged with enforcement of the provisions of this Ordinance~~the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator ~~shall be~~is subject to any criminal penalty the court may impose pursuant to NCGS Section 14-4 of the North Carolina General Statutes.

30-5-5.7 Civil Penalty Use

Civil penalties collected for erosion and sedimentation control violations ~~shall~~must be used or disbursed as directed by ~~NCCGS Section~~ 113A-64(a) of the North Carolina General Statutes.

~~Soil Erosion and Sedimentation Control; Civil Penalties~~

~~General~~

~~Any person who violates any provision of Section 30-7-4 (Soil Erosion and Sedimentation Control), the Act, or rule or order adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity (for which a soil erosion and sedimentation control plan is required) not in accordance with the terms, conditions, and provisions of an approved soil erosion and sedimentation control plan, shall be subject to a civil penalty. No civil penalty shall accrue in excess of \$500 per day, in addition to the penalty for failure to submit a soil erosion and sedimentation control plan as provided in Section 30-8-6.5 (Soil Erosion and Sedimentation Control Plan).~~

~~Notice of Violation~~

~~No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.~~

~~Notice of Assessment~~

~~The Enforcement Officer shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty, the Enforcement Officer shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the city attorney for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the penalty. Such civil actions must be filed within three (3) years of the date the final decision was served on the violator.~~

~~Soil Erosion and Sedimentation Control; Injunctive Relief~~

~~Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the City, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court~~

1 ~~of Guilford County. Upon determination by a court that an alleged violation is occurring or is~~
2 ~~threatened, it shall enter such orders or judgments as are necessary to abate the violation or to~~
3 ~~prevent the threatened violation. The institution of an action for injunctive relief under this~~
4 ~~Section shall not relieve any party to such proceedings from any civil or criminal penalty~~
5 ~~prescribed for violations of this Ordinance.~~